



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

April 15, 2024

VIP CRE Investments LLC
Attn: Patrick Rooney, Registered Agent
1638 Shelby Street, Suite 101
Indianapolis, IN 46203

VIP CRE Investments LLC
Attn: Patrick Rooney, Registered Agent
7054 Kennesaw Drive
Brownsburg, IN 46112

Re: Violation Letter
Expo 24 Hour / Mobil Gas
601 N Main Street
Mishawaka, St. Joseph County
UST Facility ID # **12240**

Dear Mr. Rooney:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on February 23, 2024.

The inspection was conducted pursuant to Indiana Code (IC) 13-14-2-2 to determine compliance with the provisions of IC 13-23 and 329 IAC 9. In accordance with IC 13-14-5, a summary of the inspection is provided below:

Type of Inspection: Initial

Results of Inspection: Violations were discovered and require a submittal.

Within thirty (30) days of receipt of this letter, documentation demonstrating compliance with each of the requirements listed in the attached Inspection Report and Description of Violations (DOV) must be submitted to IDEM. Failure to submit this documentation may lead to this facility being referred for enforcement.

An enforcement action may include civil penalties of up to \$10,000 per UST. Enforcement actions may also affect the owner's and/or operator's eligibility for reimbursement from the Excess Liability Trust Fund (ELTF). Additionally, IDEM may deem the USTs at this facility ineligible for delivery, deposit or acceptance of regulated substances pursuant to IC 13-23-1-4. Finally, federal and criminal penalties may apply for failure to provide required notification; or submitting false information pursuant to IC 13-23-14-2 and liable under IC 13-30-10.

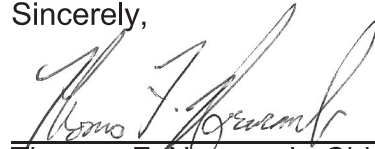
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # **12240**.

Inspector: Adam James
Phone: (317) 408-7187

Direct any questions regarding the inspection to:

Compliance Manager: Mark Shaffer
Phone: (317) 234-3543

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas F. Newcomb", is written over a horizontal line.

Thomas F. Newcomb, Chief
UST Compliance Section
Office of Land Quality

cc: Mark Shaffer
Adam James
UST Facility ID File # 12240

VIP CRE Investments LLC
Attn: Patrick Rooney, Registered Agent
Via email: pmrooney1@gmail.com

DESCRIPTION OF VIOLATIONS	
This inspection or records review revealed that the owner and/or operator of this facility is in violation of Indiana UST Rule 329 IAC 9. 329 Indiana Administrative Code ("IAC") 9 incorporates certain federal underground storage tank requirements found in 40 Code of Federal Regulations ("CFR") Part 280, including those identified below. The Description of Violations (DOV) and corrective measures are as follows:	
FACILITY NAME: Expo 24 Hour / Mobil Gas	UST FACILITY ID: 12240
ADDRESS: 601 N Main Street, Mishawaka St. Joseph County	INSPECTION DATE: 02/23/2024
VIOLATIONS NOTED IN THIS INSPECTION	

329 IAC 9-2-2(c) – Failure to register/notify with complete information
Citation:
Pursuant to 329 IAC 9-2-2(c), an owner required to submit a notification under this section shall provide: (1) a notification for each UST owned; (2) complete information required on the form for each UST owned; and (3) if applicable, a separate notification form for each separate place of operation at which the USTs are located.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because an updated notification form with the correct owner/operator information is required.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall fill out and submit to IDEM a correct and complete copy of the appropriate state form with required attachments, within fifteen (15) days of receipt of this notice.

§ 280.34 – Reporting and recordkeeping (general provisions)
Citation:
Pursuant to 40 CFR 280.34, owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the implementing agency, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to section 9005 of Subtitle I of the Solid Waste Disposal Act, as amended.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because records were not submitted at initial request 01/08/2024 and required records were not provided during the inspection 02/23/2024.</i>

Corrective Action:
The owner and/or operator of the UST systems at this site shall immediately perform the monitoring or testing required by the rules and/or submit the requested documentation within seven (7) days of receipt of this notice.

§ 280.40(a)(3)(iii) – Failure to perform annual tests of ALLD
Citation:
Pursuant to 40 CFR 280.40(a)(3)(iii), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria: (iii) Automatic line leak detector: test operation to meet criteria in § 280.44(a) by simulating a leak.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because annual line leak detector testing was not provided.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have the automatic line leak detectors tested for proper operation by simulating a leak within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.41(b)(1)(i)(B) – Failure to perform annual piping LTT or monthly monitoring
Citation:
Pursuant to 40 CFR 280.41(b)(1)(i)(B), pressurized underground piping installed on or before April 11, 2016 (previously cited as September 2, 2009 under 329 IAC 9-2-1(2)(D)) that routinely contains regulated substances must have an annual line tightness test conducted in accordance with § 280.44(b) or have monthly monitoring conducted in accordance with § 280.44(c).
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because annual line tightness testing was not provided.</i>

Corrective Action:

The owner and/or operator of the UST systems at this site shall have any piping that contains a regulated amount of product and found to not have had appropriate monthly monitoring or an annual line tightness test within the 12 months prior to inspection tightness tested within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.20(c)(1)(i) – Failure to have spill prevention equipment that will prevent release

Citation:

Pursuant to 40 CFR 280.20(c)(1)(i), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

(i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin).

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because excess liquids were observed in the REG and PREM spill buckets preventing the equipment from performing as designed in the event of a spill or overfill.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to install or replace absent or substandard spill prevention equipment that will prevent the release of product to the environment. The UST owner and/or operator must submit proof that the spill prevention equipment has been installed within forty five (45) days of receipt of this notice.

§ 280.35(a)(1) – Failure to perform periodic testing of spill prevention equipment and containment sumps used for IM

Citation:

Pursuant to 40 CFR 280.35(a)(1), owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because periodic spill bucket testing was not provided.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to inspect, repair and test all spill prevention equipment. Documentation, to include photographs, inspection, repair and testing results, showing the spill prevention equipment are liquid tight must be submitted within forty five (45) days of the receipt of this notice.

§ 280.35(a)(2) – Failure to perform periodic testing of overfill prevention equipment

Citation:

Pursuant to 40 CFR 280.35(a)(2), overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in § 280.20(c) and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the criteria in paragraph (a)(1)(ii)(A) through (C) of this section.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because periodic overfill prevention testing was not provided.

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to inspect, repair and test all overfill prevention equipment. Documentation, to include photographs, inspection, repair, measurements and testing results, showing the overfill prevention equipment is fully functional and set at the correct level must be submitted within forty five (45) days of the receipt of this notice.

§ 280.40(a)(3)(i) – Failure to perform annual tests of ATG
Citation:
Pursuant to 40 CFR 280.40(a)(3)(i), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria: (i) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because annual ATG unit testing was not provided.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauge or other controllers tested for proper operation within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.40(a)(3)(ii) – Failure to perform annual tests of probes & sensors
Citation:
Pursuant to 40 CFR 280.40(a)(3)(ii), owners and operators of UST systems must provide a method, or combination of methods, of release detection that beginning on October 13, 2018, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed in paragraphs (a)(1) and (2) of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria: (ii) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because annual ATG probes testing was not provided.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall have all components of the automatic tank gauging probes tested for proper operation within thirty (30) days of receipt of this notice and submit the results within forty five (45) days of receipt of this notice.

§ 280.36(a)(1)(i) – Failure to perform 30 day walkthrough inspections
Citation:
Pursuant to 40 CFR 280.36(a)(1)(i), to properly operate and maintain UST systems, not later than June 28, 2021, owners and operators must conduct a walkthrough inspection every 30 days that, at a minimum, checks spill prevention equipment and release detection equipment (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery).
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because twelve (12) months of monthly walkthroughs Feb 2023 - Feb 2024 were not provided.</i>

Corrective Action:
The owner and/or operator of the UST systems at this site shall, within seven (7) days of receipt of this notice, perform the 30 day walkthrough inspection for all UST systems at the site in accordance with a standard of practice referenced in the rule. Documentation, to include photographs, inspection forms, repair documents, and waste disposal records, showing the walkthrough inspection has been completed must be submitted within forty five (45) days of the receipt of this notice.

§ 280.36(a)(1)(ii) – Failure to perform annual walkthrough inspections
Citation:
Pursuant to 40 CFR 280.36(a)(1)(ii), to properly operate and maintain UST systems, not later than June 28, 2021 owners and operators must conduct a walkthrough inspection annually that, at a minimum, checks containment sumps and hand held release detection equipment.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because a current annual walkthrough inspection for 2023 - 2024 was not provided.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall, within seven (7) days of receipt of this notice, perform the annual walkthrough inspection for all UST systems at the site in accordance with a standard of practice referenced in the rule. Documentation, to include photographs, inspection forms, repair documents, and waste disposal records, showing the walkthrough inspection has been completed must be submitted within forty five (45) days of the receipt of this notice.

§ 280.245 – Failure to maintain list of designated operators and/or training records
Citation:
Pursuant to 40 CFR 280.245, owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with § 280.34.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because Operator Certificates A, B and C were not provided.</i>
Corrective Action:
The owner or operator of the UST systems at this site shall submit a list of those employees designated to be Class A, Class B and Class C operators. Those so designated must be trained and certification of that training submitted within thirty (30) days of receipt of this notice.



**UNDERGROUND STORAGE
TANK INSPECTION REPORT**
INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **12240**

Inspector's Name:	Adam James
Date:	February 23, 2024
Time In:	10:50
Time Out:	11:25
Inspection Type:	Initial

FACILITY NAME / LOCATION					
FACILITY NAME Expo 24 Hour / Mobil Gas			FACILITY ADDRESS (number and street) 601 N Main Street		
ADDRESS (line 2)		CITY Mishawaka	STATE IN	ZIP CODE 46545	COUNTY St. Joseph
UST OWNER					
UST Owner Name (Business Name as registered with the Secretary of State) 7 Eleven Inc				BUSINESS ID (From the Secretary of State) 196905-329	
PREFIX	FIRST NAME Michael	MI	LAST NAME Byrne		SUFFIX
TELEPHONE NUMBER (937) 863-7667		EMAIL ADDRESS michael.byrne@7-11.com			
UST OPERATOR					
UST Operator Name (Business Name as registered with the Secretary of State) 7 Eleven Inc				BUSINESS ID (From the Secretary of State) 196905-329	
PREFIX	FIRST NAME Andrew	MI	LAST NAME Rice		SUFFIX
TELEPHONE NUMBER (937) 863-7667		EMAIL ADDRESS andrew.rice@7-11.com			
PROPERTY OWNER					
UST Property Owner Name (Business Name as registered with the Secretary of State) VIP CRE Investments LLC				BUSINESS ID (From the Secretary of State) 202211181640395	
PREFIX	FIRST NAME Patrick	MI	LAST NAME Rooney		SUFFIX
TELEPHONE NUMBER (317) 445-9956		EMAIL ADDRESS pmrooney1@gmail.com			
COMPLIANCE ELEMENTS					
All USTs properly registered and up-to-date notification form on file			YES	☒ NO	UNK
An updated notification form with the correct owner/operator information is required.					
O/O is in compliance with reporting & record keeping requirements			YES	☒ NO	UNK
No documentation submitted on initial request 01/08/2024 and insufficient records collected.					
O/O is in compliance with release reporting or investigation			☒ YES	NO	N/A
O/O is in compliance with all UST closure requirements			☒ YES	NO	N/A
O/O has met all financial responsibility requirements			☒ YES	NO	N/A
40 CFR 280, Subpart A installation requirements (partially excluded) met			☒ YES	NO	N/A
40 CFR 280, Subpart B installation and upgrade requirements met			YES	☒ NO	UNK
REG and DSL spill buckets are full of fluids and will not perform as design.					
40 CFR 280, Subpart C spill/overfill control requirements met			☒ YES	NO	N/A
40 CFR 280, Subpart C compatibility requirements met			☒ YES	NO	N/A
40 CFR 280, Subpart C O&M and testing requirements met			YES	☒ NO	UNK
Spill bucket test, Overfill prevention test, Monthly and Annual walkthrough inspections					
40 CFR 280, Subpart D release detection requirements met			YES	☒ NO	UNK
Line leak detector and line tightness tests, ATG/probe test					
40 CFR 280, Subpart J operator training requirements met			YES	☒ NO	UNK
Operator Certificate A, B and C					

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

Site Maintains: Three (3) FG SW USTs - Installed 12/23/1986

- One (1) 10K REG GSL
- One (1) 10K PREM GSL
- One (1) 10K DSL
- Piping is FG SW and pressurized

RD UST = ATG

RD Piping = LLD, LTT, ATG

Overfill/Spill = Spill Buckets + Auto Shutoffs (consistent)

ATG Certification = N

Overfill Protection Test = N

Spill bucket Test = N

Containment Sumps Test (Not Required) = N

Site History:

- Site is an active service station. There is no prior UST history at this site.
 - Email from Andrew Rice states they no longer own this FID. New NF has never been submitted.
- Property card shows VIP CRE INVESTMENTS LLC as the property owner.

Contact Information:

Michael Byrne - michael.byrne@7-11.com

Andrew Rice - andrew.rice@7-11.com

Patrick Rooney - pmrooney1@gmail.com

Inspector Notes: RD records for the USTs were collected on site. No additional compliance documentation was on site and no records were submitted prior and post inspection.

- Drop tubes are co-axle for vapor recovery.
- Piping appears to be Smith Fibercast Red Thread.

The following are AREAS OF CONCERN found during the inspection that will need to be addressed by the owner and/or operator:

1. DSL STP riser has discolored backfill. DSL STP riser should be closely monitored to ensure equipment is functioning as design and ensure a potential release has not occurred.
2. Active alarms - Autodial Failure. Alarm Clear Warning. Communication Alarm. ATG unit appears to be having issues and needs to be tested to ensure the equipment is functioning as design.

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

The following are VIOLATIONS discovered during the inspection that will need to be corrected within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program:

1. An updated notification form with the correct owner/operator information is required.
2. Records were not submitted at initial request 01/08/2024 and required records were not provided during the inspection 02/23/2024.
3. Line leak detector and line tightness tests were not provided.
4. Excess liquids were observed in the REG and PREM spill buckets preventing the equipment from performing as designed in the event of a spill during product delivery.
5. Spill bucket test was not provided.
6. Overfill prevention test was not provided.
7. ATG unit test was not provided.
8. ATG probes test was not provided.
9. Twelve (12) months of monthly walkthroughs Feb 2023 - Feb 2024 were not provided.
10. Annual walkthrough inspection for 2023 - 2024 was not provided.
11. Operator Certificates A, B and C were not provided.

The following are RECORDS to be submitted to the inspector within 30 days of receipt of this inspection report to avoid further action and achieve compliance with the state underground storage tank program (update accordingly):

- Updated NF (Correct owner/operator information.)
- Line leak detector and line tightness tests
- Spill bucket test
- Overfill prevention test
- ATG test
- ATG probes test
- Monthly and Annual walkthroughs
- Operator Certificate A, B and C
- Confirmation fluids have been removed from REG and PREM spill buckets.