



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

June 12, 2023

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

Re: Violation Letter
7-11 Store 32582
429 N Main St
Elkhart, Elkhart County
UST Facility ID # **9066**

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 May 10, 2023.

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.

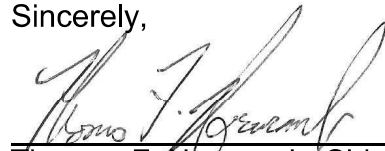
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at USTCompliance@idem.in.gov. Include in the subject line of the response the UST Facility ID # 9066.

Inspector: Danny Rice
Phone: (317) 646-5160

Direct any questions regarding the inspection to:

Compliance Manager: Jordan Ware
Phone: (317) 232-2045

Sincerely,

A handwritten signature in dark 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: Jordan Ware
Danny Rice
UST Facility ID File # 9066

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: 7-Eleven #32582	UST FACILITY ID:9066
ADDRESS: 429 N Main Street Elkhart IN 46516 Elkhart County	INSPECTION DATE: 05/10/2023

VIOLATIONS NOTED IN THIS INSPECTION

329 IAC 9-2-2(b) – Failure to register/notify within 30 days of ownership

Citation:

Pursuant to 329 IAC 9-2-2(b), the owner of a UST system, UST, or tank shall submit a notification form to register the UST system, UST, or tank to the department within thirty (30) days of becoming the owner of, or bringing into use, the UST system, UST, or tank. Bringing a tank or UST system "into use" means the tank or UST system contains or has contained a regulated substance and has not been closed under 329 IAC 9-6.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because the new owner did not submit a notification form to register the UST system to IDEM within thirty (30) days of becoming the owner.

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.

329 IAC 9-8-11(b) – Failure to demonstrate the ability to pay the deductible amount

Citation:

Pursuant to 329 IAC 9-8-11(b), an owner or operator of:

- (1) twelve (12) or fewer USTs shall demonstrate the ability to pay the applicable deductible amount under IC 13-23-9-1.3; or
- (2) more than twelve (12) USTs shall demonstrate the ability to pay two (2) times the applicable deductible amount under IC 13-23-9-1.3.

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because a financial responsibility mechanism was not provided.

Corrective Action:

The owner and/or operator of the UST systems at this site shall submit a copy of the instrument proving they have the coverage required by this rule within thirty (30) days of receipt of this notice.

§ 280.41(a)(1) – Failure to monitor tanks every 30 days if installed before 9/2/2009

Citation:

Pursuant to 40 CFR 280.41(a)(1), considering previous Indiana rule at 329 IAC 9-3-1.3 (repealed 2018), tanks installed on or before September 2, 2009 must be monitored for releases at least every 30 days using one of the methods listed in § 280.43(d) through (i).

Violation Details:

The owner and/or operator of the UST system(s) at this site are in violation of this rule because UST release detection records are incomplete for both USTs. Collected 4/23 and 5/23 results during inspection.

Corrective Action:

The owner and/or operator of the UST systems at this site shall have any UST or line that contains a regulated amount of product and found to not have been monitored every thirty (30) days 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. The owner and/or operator shall continue to perform proper monthly release detection and submit the results monthly for a period of six (6) months after the 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:

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

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.

§ 280.40(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 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.

§ 280.40(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 ATG certification 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 ATG Probe 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 and sensors 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.

§ 280.35(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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because spill bucket testing was not provided.</i>

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 and containment sumps. Documentation, to include photographs, inspection, repair and testing results, showing the spill prevention equipment and containment sumps 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:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because overfill testing was not provided.</i>
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.
§ 280.36(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 monthly walkthrough inspections 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 an annual walkthrough inspection 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 certifications A,B,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: **9066**

Inspector's Name:	Danny Rice
Date:	May 10, 2023
Time In:	10:00
Time Out:	11:00
Inspection Type:	Initial

FACILITY NAME / LOCATION									
FACILITY NAME 7-Eleven #32582					FACILITY ADDRESS (number and street) 429 N Main Street				
ADDRESS (line 2)			CITY Elkhart		STATE IN	ZIP CODE 46516		COUNTY Elkhart	
UST OWNER									
UST Owner Name (If in Individual Capacity) Unknown							BUSINESS ID (From the Secretary of State)		
PREFIX	FIRST NAME			MI	LAST NAME			SUFFIX	
TELEPHONE NUMBER			EMAIL ADDRESS						
UST OPERATOR									
UST Operator Name (If in Individual Capacity) Unknown							BUSINESS ID (From the Secretary of State)		
PREFIX	FIRST NAME			MI	LAST NAME			SUFFIX	
TELEPHONE NUMBER			EMAIL ADDRESS						
PROPERTY OWNER									
UST Property Owner Name (If in Individual Capacity) VIP CRE Investments							BUSINESS ID (From the Secretary of State) 202211181640395		
PREFIX	FIRST NAME			MI	LAST NAME			SUFFIX	
Mr.	Patrick				Rooney				
TELEPHONE NUMBER			EMAIL ADDRESS						
COMPLIANCE ELEMENTS									
All USTs properly registered and up-to-date notification form on file					☐	YES	☒	NO	UNK
Notification form with all information is needed to include owner information									
O/O is in compliance with reporting & record keeping requirements					☒	YES	☐	NO	UNK
O/O is in compliance with release reporting or investigation									
					☐	YES	☐	NO	UNK
					☐	YES	☐	NO	UNK
					☐	YES	☒	N/A	UNK
O/O is in compliance with all UST closure requirements					☒	YES	☐	NO	UNK
					☒	YES	☐	NO	UNK
O/O has met all financial responsibility requirements					☐	YES	☒	NO	UNK
Certificate of financial responsibility was not provided.									
40 CFR 280, Subpart A installation requirements (partially excluded) met					☒	YES	☐	NO	UNK
					☒	YES	☐	NO	UNK
40 CFR 280, Subpart B installation and upgrade requirements met					☒	YES	☐	NO	UNK
					☒	YES	☐	NO	UNK
40 CFR 280, Subpart C spill/overfill control requirements met					☒	YES	☐	NO	UNK
					☒	YES	☐	NO	UNK
40 CFR 280, Subpart C compatibility requirements met					☒	YES	☐	NO	UNK
					☒	YES	☐	NO	UNK
40 CFR 280, Subpart C O&M and testing requirements met					☐	YES	☒	NO	UNK
Spill bucket, overfill testing monthly and annual walkthrough inspections were not provided.									
40 CFR 280, Subpart D release detection requirements met					☐	YES	☒	NO	UNK
ATG,ATG probe, Line tightness, line leak detector testing, UST RD incomplete									
40 CFR 280, Subpart J operator training requirements met					☐	YES	☒	NO	UNK
Operator A,B,C certification was not provided.									

COMPLIANCE REVIEW AND COMMENTSUST Facility ID **9066**

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:

- One (1) 6K PREM CLAD Steel UST installed in 9/1994 (wrong in ULCERs states 8K)
- One (1) 10K REG FG DW UST installed in 9/2003 (wrong in ULCERs states DSL)
- Piping is FG DW and pressurized

RD UST = ATG

RD Piping = LLD, LTT

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

ATG Certification = N

Overfill Protection Test = N

Spill bucket Test = N

Containment Sumps Test Not Required

Site History:

Site is an active service station. One (1) UST was removed in 1998, two (2) USTs were closed in place in 2003, and two (2) USTs were removed in 1994 but are not in ULCERs (VFC Doc# 23603365).

Contact Information

Andrew Rice, Andrew.Rice@7-11.com

Documentation not provided at the time of the file review:

- (NF 8/5/14, initial approval 6/3/16)
- Certificate of Financial Responsibility
- Operator Certificates A, B, C
- UST RD (ATG)
- LTT
- LLD
- ATG/Probe
- Spill Bucket Test
- Overfill Test
- Monthly Walkthroughs
- Annual Walkthrough

CM Notes: Previous owner is 7-11. A violation letter was sent to 7-11 on 5/15/23. Per e-mail from Andrew Rice dated May 24, 2023, 7-11 no longer owns this site. The property card shows VIP CRE Investments as the property owner dated 4/6/23. An updated notification form with the change of ownership was not submitted within 30 days.

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

Liquid found in both spill buckets. Monitor and clean as needed.

Liquid found in both STP Sumps. Monitor and clean as needed.

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) Updated Notification form is needed with new owner information along with UST and piping information.
- 2) Certificate of financial responsibility was not provided.
- 3) UST release detection records are incomplete for both USTs. Collected 4/23 and 5/23 results during inspection.
- 3) Line tightness testing was not provided.
- 4) Line leak detector testing was not provided.
- 5) ATG certification was not provided.
- 6) ATG probe testing was not provided.
- 7) Spill bucket testing was not provided.
- 8) Overfill testing was not provided.
- 9) Monthly walkthrough inspections were not provided.
- 10) Annual walkthrough inspection was not provided.
- 11) Operator A,B,C certification was 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:

- Updated notification form
- Certificate of Financial Responsibility
- UST RD (ATG)
- LTT
- LLD
- ATG/Probe
- Spill Bucket Test
- Overfill Test
- Monthly Walkthroughs
- Annual Walkthrough
- Operator Certificates A, B, C

Inspector Notes:

- New name of station is Expo Elkhart