

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF COMPLIANCE & INSPECTION**

IN RE: THE ORIGINAL BRADFORD SOAP WORKS, INC. FILE NO.: OCI-UST-24-37-01855

NOTICE OF VIOLATION

A. INTRODUCTION

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Rhode Island Department of Environmental Management (the “Director” of “RIDEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

B. ADMINISTRATIVE HISTORY

On 23 September 2024, RIDEM issued a *Notice of Intent to Enforce* (“NIE”) by Certified Mail to Respondent for the alleged violations that are the subject of this *Notice of Violation* (“NOV”). The NIE required specific actions to correct the alleged violations. The NIE was delivered on 26 September 2024. On 7 October 2024, RIDEM received a letter from Respondent, in which it advised that all of the issues put forth in the NIE would be addressed. As of the date of this NOV, Respondent has failed to comply with the remedial requirements set forth by RIDEM in the NIE.

C. FACTS

- (1) The subject property is located at 200 Providence Street, Assessor’s Plat 23, Lot 11 in the Town of West Warwick, Rhode Island (the “Property”). The Property includes a manufacturing plant and a hazardous material storage and dispensing system (the "Facility").
- (2) Respondent owns the Property.
- (3) Respondent operates the Facility.
- (4) Respondent is the owner and operator of one underground storage tank (“UST” or “tank”) that is installed on the Property, which tank is used for storage of a hazardous material, and which is subject to Rhode Island’s *Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials*, 250-RICR-140-25-1 (the “UST Rules”).
- (5) The Facility is registered with RIDEM and is identified as UST Facility No. 01855.

- (6) The UST is registered with RIDEM as follows:

UST ID No.	Date Installed	Capacity	Product Stored
005	4 November 1999	6,000 gallons	Ethyl Alcohol

- (7) The spill containment basin, tank top sump and transition sump for UST No. 005 are single-walled.
- (8) On 19 September 2024, RIDEM inspected the Facility. The inspection and a review of RIDEM's files for the Facility revealed the following alleged instances of non-compliance with the UST Rules:
- (a) Written verification that the line leak detector for UST No. 005 had been tested by a qualified person during each of the years 2021, 2022 and 2024 was not available. Line leak detector test reports for this UST for the years 2021, 2022, 2023 and 2024 had not been received by RIDEM.
 - (b) Written verification that the *Veeder Root TLS 300C* continuous monitoring system ("CMS") had been certified/tested by a qualified 3rd person during each of the years 2021, 2022 and 2023 was not available. Tank monitor test reports for the years 2021, 2022, 2023 and 2024 had not been received by RIDEM.
 - (c) The spill containment basin and the transition sump were holding liquid mixtures at the time of inspection.
 - (d) Written verification that the automatic shut-off valve and remote high-level alarm overflow prevention devices for UST No. 005 had been tested by a qualified 3rd person during each of the years 2021, 2022, 2023 and 2024 was not available. Overflow prevention test reports for this UST for the years 2021, 2022, 2023 and 2024 had not been received by RIDEM.
 - (e) Written verification that the transition sump for UST No. 005 had been tested for tightness by a RIDEM-licensed tightness tester before 13 October 2021 was not available. A tightness test report for this sump for the year 2021 had not been received by RIDEM.
 - (f) The fill port for UST No. 005 was not labeled or otherwise permanently marked to identify the product stored inside the tank.
 - (g) Written verification that the registered, certified Class A/B UST facility operators (Shannon Earle, Chris Stone and Tristan Olsen) had performed monthly on-site UST facility inspections during the time period of November 2021 through August 2024, and documented the results of those inspections on the requisite checklist, was not available. Most of the monthly inspection checklists on file at the Facility indicate that the inspections were performed by Ms. Elizabeth Lydon, who is not registered with RIDEM as a certified Class A

or B UST facility operator for the Facility. Monthly inspection checklists for the approximate time period of September 2023 through August 2024 were not available at the time of inspection.

- (9) On 10 October 2024, Respondent registered a new Class A/B UST facility operator (Paul Moehle) with RIDEM, however, they failed to submit written verification that Mr. Moehle is now performing the monthly facility inspections required of the registered, certified Class A/B UST facility operators.
- (10) On 30 October 2024, Respondent had the line leak detector tested by P.M. Environmental, Inc., however, they failed to ensure that the tester submitted the results on the requisite RIDEM form.
- (11) As of the date of this NOV, Respondent has not submitted written verification that the spill containment basin, tank top sump and transition sump for UST No. 005 were tested for tightness by a RIDEM-licensed tightness tester prior to 20 October 2024, as was required by the UST Rules (the basin and tank top sump were last tested in October 2021 according to records on file with RIDEM).
- (12) As of the date of this NOV, Respondent has yet to demonstrate that the alleged violations set forth in Sections C(8) and C(11) have been fully rectified in accordance with the UST Rules.

D. VIOLATION

Based on the foregoing facts, the Director has reasonable grounds to believe that Respondent has violated the following regulations:

- (1) **UST Rules, Part 1.10(I)** - requiring owners/operators to procure the services of qualified 3rd persons to perform annual testing of line leak detectors.
- (2) **UST Rules, Parts 1.10(M)(7 – 9)** - requiring owners/operators to procure the services of qualified 3rd persons to inspect and test UST continuous monitoring systems on an annual basis.
- (3) **UST Rules, Parts 1.10(N)(1)(a), 1.10(N)(3)(c) and 1.10(B)(1)** - requiring owners/operators to keep spill containment basins and sumps free of liquids and debris at all times.
- (4) **UST Rules, Part 1.10(N)(1)(b)** – requiring owners/operators to procure the services of RIDEM-licensed tightness testers to perform tightness testing of single-walled spill containment basins before 13 October 2021 and then at least once every three years thereafter.
- (5) **UST Rules, Parts 1.10(N)(2)(b)(1 and 2)** - requiring owners/operators to procure the services of qualified persons to inspect and test remote high-level alarm and automatic shut-off valve overfill prevention devices on an annual basis.

- (6) **UST Rules, Part 1.10(N)(3)(d)** – requiring owners/operators to procure the services of RIDEM-licensed tightness testers to perform tightness testing of single-walled sumps and under dispenser containment before 13 October 2021 and then at least once every three years thereafter.
- (7) **UST Rules, Part 1.10(P)** - requiring that UST fill ports be labeled or otherwise permanently marked to identify the products stored inside the tanks.
- (8) **UST Rules, Parts 1.10(U)(3)(b) and 1.10(U)(4)(b)** - requiring owners/operators of UST facilities to register their certified Class A and B UST facility operators with RIDEM.
- (9) **UST Rules, Parts 1.10(U)(5) and 1.10(U)(6)** – requiring the registered, certified Class A and B UST facility operators to inspect their facilities monthly, ensure that the UST systems are compliantly operated and maintained, ensure that required records are compliantly maintained and ensure that their facilities have trained Class C UST facility operators assigned.
- (10) **UST Rules, Part 1.10(U)(9)** – requiring the registered, certified Class A or B UST facility operator to perform monthly on-site UST facility inspections and to document those inspections on the requisite form.

E. ORDER

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), Respondent is hereby ORDERED to:

- (1) **Immediately** evacuate and clean the spill containment basin and transition sump for UST No. 005 in accordance with Parts 1.10(B)(1), 1.10(N)(1)(a) and 1.10(N)(3)(c) of the UST Rules. All wastes removed from these basins and sumps shall be managed and disposed of in accordance with Part 1.7.3 of Rhode Island’s *Rules and Regulations for Hazardous Waste Management*, 250-RICR-140-10-1, as amended. Written or photographic verification of the compliance shall be submitted to the RIDEM’s Office of Compliance & Inspection (“OC&I”).
- (2) **Immediately** label or otherwise permanently mark the fill port for UST No. 005 in accordance with Part 1.10(P) of the UST Rules. Written or photographic verification of compliance shall be submitted to the OC&I.
- (3) **Complete all of the following remedial actions within 60 days of receipt of this NOV:**
 - (a) Submit original 2023 and 2024 line leak detector test reports (on the requisite RIDEM standardized form) to the RIDEM’s Office of Land Revitalization and Sustainable Materials Management (“OLR&SMM”) in accordance with Part 1.10(I)(1) of the UST Rules.

- (b) Submit an original 2024 CMS certification/testing report (on the requisite RIDEM standardized form) to the OLR&SMM in accordance with Part 1.10(M)(9) of the UST Rules.
- (c) Procure the services of a RIDEM-licensed tightness tester to test the spill containment basin for UST No. 005 for tightness in accordance with Part 1.10(N)(1)(b) of the UST Rules. Original copies of the tightness test report shall be submitted to the OC&I and the OLR&SMM in accordance with Part 1.10(N)(1)(b)(2) of the UST Rules.
- (d) Procure the services of a qualified person to inspect and test the remote high-level alarm and automatic shut-off valve overfill prevention devices in accordance with Part 1.10(N)(2)(b)(1 and 2) of the UST Rules and submit copies of the test report to the OC&I and the OLR&SMM in accordance with Part 1.10(N)(2)(b)(4) of the UST Rules.
- (e) Procure the services of a RIDEM-licensed tightness tester to test the tank top sump and transition sump for UST No. 005 for tightness in accordance with Part 1.10(N)(3)(d) of the UST Rules. Original copies of the tightness test report shall be submitted to the OC&I and the OLR&SMM in accordance with Part 1.10(N)(3)(d)(5) of the UST Rules.
- (f) Complete a *Class A/B UST Operator Registration Form* for any currently unregistered Class A and B UST facility operators in accordance with Part 1.10(U)(3)(b) of the UST Rules and submit the form to the OLR&SMM along with copies of the Class A and Class B UST facility operators' examination certificates. Copies of the form and certificates shall also be submitted to the OC&I.
- (g) Only registered, certified Class A/B UST facility operators shall henceforth perform the monthly UST facility inspections in full compliance with Parts 1.10(U)(5, 6 and 9) of the UST Rules and document the results of those inspections on the requisite checklist. Written verification of a return to compliance shall be submitted to the OC&I.

F. PENALTY

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

\$10,713

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island's *Rules and Regulations for Assessment of Administrative Penalties* (250-RICR-130-00-1) ("Penalty Rules") and must be paid to RIDEM within 30 days of your receipt of the NOV. Penalty payments shall be by one of two methods:

- (a) By certified check, cashier's check or money order made payable to the **General Treasury – Water and Air Protection Program** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection
235 Promenade Street, Suite 220
Providence, RI 02908-5767

- (b) By wire transfer in accordance with instructions provided by RIDEM.
- (3) Penalties assessed against Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if RIDEM determines that reasonable efforts have been made to comply promptly with the NOV.

G. RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before RIDEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing **MUST**:
- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
- (b) Be **RECEIVED** by RIDEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
RIDEM - Administrative Adjudication Division
235 Promenade Street, Suite 350
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division* (250-RICR-10-00-1).

- (2) A copy of each request for hearing must also be forwarded to:

Johann G, Donall, Esquire
RIDEM - Office of Legal Services
235 Promenade Street, Suite 425
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before RIDEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) An original signed copy of the NOV is being forwarded to the Town of West Warwick, Rhode Island, wherein the Property is located, to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 42-17.1-2(31), as amended.
- (7) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Johann G. Donall of RIDEM's Office of Legal Services at (401) 537-4081 or at Johann.Donall@dem.ri.gov. All other inquiries should be directed to Tracey Tyrrell of RIDEM's Office of Compliance and Inspection at (401) 537-4480 or at tracey.tyrrell@dem.ri.gov.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: _____
Christina Hoefsmit, Deputy Administrator
Office of Compliance and Inspection

Dated: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

The Original Bradford Soap Works, Inc.
c/o Michael D'Amico, Registered Agent
200 Providence Street
West Warwick, RI 02893;

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: UST
 File No.: OCI-UST-24-37-01855
 Respondent: The Original Bradford Soap Works, Inc.

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION NO. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D(1), (2) & (5) – Testing of Line Leak Detectors, Tank Monitor and Overfill Prevention	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$1,250	Four years	\$5,000
D(4) & (6) – Spill Containment Basin and Sump Tightness Testing	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$1,750	1 violation	\$1,750
D(8, 9 & 10) – Operator Training Requirements	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$2,000	1 violation	\$2,000
SUB-TOTAL					\$8,750

*Maximum Penalties represent the maximum penalty amounts per day, per violation.

ECONOMIC BENEFIT FROM NON-COMPLIANCE			
COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:			
<ul style="list-style-type: none"> - THERE IS NO IDENTIFIABLE BENEFIT FROM NON-COMPLIANCE; OR - THE AMOUNT OF ECONOMIC BENEFIT CANNOT BE QUANTIFIED. 			
DESCRIPTION OF BENEFIT	CALCULATION		AMOUNT
Avoiding the cost of line leak detector, tank monitor and overfill prevention testing in 2021. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Non-compliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control 	C Corp. \$626 December 2021 Avoided 1 June 2025	\$581

ADMINISTRATIVE PENALTY SUMMARY (continued)

	<ul style="list-style-type: none"> ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	8.5%	
<p>Avoiding the cost of transition sump tightness testing in 2021. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Non-compliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	<p>C Corp.</p> <p>\$246</p> <p>October 2021</p> <p>Avoided</p> <p>1 June 2025</p> <p>8.5%</p>	\$228
<p>Avoiding the cost of line leak detector, tank monitor and overflow prevention testing in 2022. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Non-compliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	<p>C Corp.</p> <p>\$626</p> <p>December 2022</p> <p>Avoided</p> <p>1 June 2025</p> <p>9.1%</p>	\$561
<p>Avoiding the cost of tank monitor and overflow prevention testing in 2023. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Non-compliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control 	<p>C Corp.</p> <p>\$491</p> <p>December 2023</p> <p>Avoided</p> <p>1 June 2025</p>	\$399

ADMINISTRATIVE PENALTY SUMMARY (continued)

	<ul style="list-style-type: none"> ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	9.5%	
<p>Avoiding the cost of overfill prevention testing in 2024. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Non-compliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	<p>C Corp.</p> <p>\$216</p> <p>March 2024</p> <p>Avoided</p> <p>1 June 2025</p> <p>9.5%</p>	\$173
<p>Delaying the cost of spill containment basin and sump tightness testing in 2024. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Non-compliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	<p>C Corp.</p> <p>\$637</p> <p>October 2024</p> <p>1 July 2025</p> <p>1 June 2025</p> <p>9.1%</p>	\$21
<i>SUB-TOTAL</i>			\$1,963

ADMINISTRATIVE PENALTY SUMMARY (continued)

COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that RIDEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

TOTAL PENALTY PROPOSED UNDER PENALTY RULES= \$10,713

PENALTY MATRIX WORKSHEET

CITATION: Testing of Line Leak Detectors, Tank Monitor and Overfill Prevention
 VIOLATION NOS.: D (1), (2) and (5)

TYPE		
<p style="text-align: center;">___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">X TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to procure the services of a qualified person to test the line leak detector during each of the years 2021 and 2022, the tank monitor during each of the years 2021, 2022 and 2023 and the overfill prevention devices during each of the years 2021 through 2024. Annual testing of release detection and prevention devices is of significant importance to the regulatory program. Failure to comply reduces the likelihood of detecting and preventing releases of hazardous materials to the environment and increase the potential threats to public health and safety and groundwater resources. Respondent had the line leak detector tested in 2023 and 2024 and the tank monitor tested in 2024 and they reportedly met the criteria for passing. Respondent failed, however, to submit these test reports to RIDEM on the requisite form. (2) Environmental conditions: The Facility is in an industrial/commercial zone. The Facility is located in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. Upon information and belief, there are no drinking water supply wells in the vicinity. The Facility is in the Pawtuxet River watershed and the UST is installed within ten feet of the riverbank. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: Ethyl alcohol is highly flammable and presents a potential public safety hazard due to the potential for explosion. (5) Duration of the violation: Respondent has failed to demonstrate full compliance with these requirements for each of the past four years. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
(continued)		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondent failed to take reasonable and appropriate steps to prevent the non-compliance by having the line leak detector, tank monitor and overfill prevention for UST No. 005 tested by a qualified person during each of the years 2021, 2022, 2023 and 2024 and submitting each report to RIDEM on the requisite form (within 30 days of each test). Respondent had the line leak detector tested in 2023 and 2024 and had the tank monitor tested in 2024, however, they have yet to fully mitigate the alleged violations despite receiving the NIE from RIDEM, which required that they do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondent for the failure to immediately comply with the requirements set forth in the UST Rules. RIDEM notified Respondent of the alleged violations and provided an opportunity for Respondent to rectify them. Respondent, as owner and operator of the Facility, had full control over the occurrence of the violations.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u> X </u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500 \$1,250	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Spill Containment Basin and Sump Tightness Testing
 VIOLATION NOS.: D (4) and (6)

TYPE		
<p style="text-align: center;">___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>X</u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to procure the services of a RIDEM-licensed tightness tester to test the transition sump for UST No. 005 for tightness before 13 October 2021 and the spill containment basin, tank top sump and transition sump for tightness before 20 October 2024. Tightness testing of spill containment basins, tank top sumps and transition sumps is of significant importance to the regulatory program. Failure to comply reduces the likelihood of detecting and preventing releases of hazardous materials to the environment and increase the potential threats to public health and safety and groundwater resources. (2) Environmental conditions: The Facility is in an industrial/commercial zone. The Facility is located in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. Upon information and belief, there are no drinking water supply wells in the vicinity. The Facility is in the Pawtuxet River watershed and the UST is installed within ten feet of the riverbank. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: Ethyl alcohol is highly flammable and presents a potential public safety hazard due to the potential for explosion. (5) Duration of the violation: Respondent has been in violation of the requirement since 13 October 2021. (6) Areal extent of the violation: Considered, but not utilized for this calculation. (7) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance: Respondent failed to prevent the non-compliance by having the transition sump tested for tightness by a RIDEM-licensed tightness tester before 13 October 2021 and then having the spill containment basin, tank top sump and transition sump tested for tightness by a RIDEM-licensed tightness tester again before 20 October 2024. Respondent has yet to take any apparent steps to mitigate the violation despite receiving the NIE from RIDEM, which required that they do so. 		
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- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondent for the failure to immediately comply with the requirements set forth in the UST Rules. RIDEM notified Respondent of the alleged violations and provided an opportunity for Respondent to rectify them. Respondent, as owner and operator of the Facility, had full control over the occurrence of the violations.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u> X </u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500 \$1,750	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Operator Training Requirements

VIOLATION NOS.: D (8, 9 & 10)

TYPE		
<p style="text-align: center;">___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>X</u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Written verification that a registered, certified Class A or B UST facility operator had inspected the Facility on a monthly basis during the time period of November 2021 through August 2024 was not available. There were some completed Class A/B UST facility operator’s monthly inspection checklists on file at the Facility, however, those inspections were performed by an unregistered operator. The operator training requirements are of significant importance to the regulatory program. Failure to comply reduces the likelihood of preventing and detecting releases from the UST systems. (2) Environmental conditions: The Facility is in an industrial/commercial zone. The Facility is located in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. Upon information and belief, there are no drinking water supply wells in the vicinity. The Facility is in the Pawtuxet River watershed and the UST is installed within ten feet of the riverbank. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: Ethyl alcohol is highly flammable and presents a potential public safety hazard due to the potential for explosion. (5) Duration of the violation: Respondent failed to demonstrate compliance for November 2021 through August 2024 (6) Areal extent of the violation: Considered, but not utilized for this calculation. (7) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance: Respondent failed to prevent the non-compliance by ensuring that a registered, certified Class A or B UST facility operator inspected the Facility monthly. Respondent has yet to take any apparent steps to mitigate the alleged violation despite receiving the NIE from RIDEM, which required that they do so. 		
(continued)		

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- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondent for the failure to immediately comply with the requirements set forth in the UST Rules. RIDEM notified Respondent of the alleged violations and provided an opportunity for Respondent to rectify them. Respondent, as owner and operator of the Facility, had full control over the occurrence of the violations.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
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	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500 \$2,000	\$250 to \$1,250