

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: GEORGE'S ADVANCED AUTO  
CARE L.L.C.**

**FILE NO.: OCI-UST-20-54-00444**

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, (the "R.I. Gen. Laws") you are hereby notified that the Director of the Department of Environmental Management (the "Director" of "DEM") has reasonable grounds to believe that the above-named party ("Respondent") has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Administrative History

On 29 September 2016, DEM issued a notice to Respondent by regular mail informing Respondent of the statutory deadline for the permanent closure of the underground storage tanks that is the subject of this Notice of Violation ("NOV"). On 29 April 2019, DEM advised Respondent in electronic correspondence to modify the product pipelines to allow for testing of the pipelines, which is also the subject of the NOV. On 6 August 2020, DEM issued a final notice to Respondent by certified mail regarding the permanent closure of the underground storage tanks, which was delivered on 17 August 2020. As of the date of the NOV, Respondent has failed to comply with the notices.

C. Facts

- (1) The subject property is located at 577 Smithfield Avenue, Assessor's Plat 47, Lot 691, in the City of Pawtucket, Rhode Island (the "Property"). The Property includes a service station and underground storage tanks ("USTs" or "tanks") that are used for storage of petroleum products (the "Facility").
- (2) Respondent owns the Property.
- (3) Respondent operates the Facility.
- (4) The Facility is registered with DEM and is identified as UST Facility No. 00444.

- (5) The USTs are registered with DEM as follows:

UST ID No.	Date Installed	Capacity	Product Stored
002	1 November 1988	8,000 gallons	Gasoline
004	1 November 1988	8,000 gallons	Gasoline

- (6) UST Nos. 002 and 004 are single-walled tanks with no secondary containment.
- (7) On or about 18 June 1994, double-walled product pipelines were installed at the Facility.
- (8) On 12 February 2019, DEM inspected the Facility. The inspection and a subsequent file review revealed that Respondent failed to procure the services of a DEM-licensed tightness tester to test the outer walls of the product pipelines for UST Nos. 002 and 004 for tightness during each of the years 2014, 2016 and 2018.
- (9) On 10 December 2020, DEM observed that UST Nos. 002 and 004 were still in use.
- (10) The outer walls of the product pipelines were not tested for tightness by a DEM-licensed tightness tester during the year 2020.
- (11) As of the date of the NOV, DEM has not received a completed *Permanent Closure Application for Underground Storage Tanks* from Respondent.

D. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **R.I. Gen. Laws §46-12-3(21)** – requiring that single-walled USTs and product pipelines installed between 8 May 1985 and 20 July 1992 no longer remain in use after 32 years from the date of installation.
- (2) ***Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials [effective 26 April 2011 to 20 November 2018]***
- (a) **Rule 8.04(B)** – requiring owners/operators of single-walled USTs and product pipelines installed between 8 May 1985 and 20 July 1992 to permanently close the USTs and product pipelines within 32 years of the date of installation.

- (b) **Rule 8.09(A)(2)(a)** – requiring outer wall tightness testing of double-walled product pipelines by DEM-licensed tightness testers at 20 years of age and every two years thereafter
- (3) ***Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials (250-RICR-140-25-1) [effective 20 November 2018 to Current] (the “UST Regulations”)***
  - (a) **Part 1.10(D)(1)(b)** – requiring owners/operators of single-walled USTs and product pipelines installed between 8 May 1985 and 20 July 1992 to permanently close the USTs and product pipelines within 32 years of the date of installation.
  - (b) **Part 1.10(G)(2)(b)** – requiring outer wall tightness testing of double-walled product pipelines by DEM-licensed tightness testers at 20 years of age and every two years thereafter.

E. Order

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

- (1) **IMMEDIATELY upon receipt of the NOV**, remove UST Nos. 002 and 004 from service and cease and desist from dispensing fuel from the USTs.
- (2) **Within 7 days of receipt of the NOV**, procure the services of a qualified contractor to evacuate the contents of UST Nos. 002 and 004 and their product pipelines. The tanks shall be evacuated to one inch or less of liquid at the bottom of the tanks and the fill port for each tank shall be locked. Written verification of compliance shall be submitted to DEM’s Office of Compliance and Inspection (“OC&I”).
- (3) **Within 45 days of receipt of the NOV**, submit a completed *Permanent Closure Application for Underground Storage Tanks* to DEM’s Office of Land Revitalization & Sustainable Materials Management (“LRSMM”) and, **with LRSMM’s consent and approval, complete the permanent closure of UST Nos. 002 and 004 and their product pipelines** in accordance with Part 1.15 of the UST Regulations.
- (4) **Within 30 days of the removal of the USTs and pipelines**, complete and submit to LRSMM a *Closure Assessment Report* (prepared by a qualified environmental consultant) in accordance with Part 1.15(D)(1) of the UST Regulations, the *UST Closure Assessment Guidelines*, October 1998, and Part 2.13 of the *Oil Pollution Control Regulations (250-RICR-140-25-2)* (the “OPC Regulations”).

- (5) **Within 30 days of the removal of the USTs**, remove and properly dispose of any contaminated soil encountered during the closure and, within 10 days of the soil disposal, submit documentation of disposal to LRSMM, in accordance with Part 2.13 of the OPC Regulations.
- (6) If, after review of the *Closure Assessment Report*, LRSMM determines that a site investigation is required, complete the site investigation and submit a *Site Investigation Report* (“SIR”) to LRSMM in accordance with Part 1.14(H) of the UST Regulations and within the time frame specified by LRSMM.
- (7) If, after review of the SIR, the LRSMM determines that a *Corrective Action Plan* (“CAP”) is required, submit a proposed CAP in accordance with Part 1.14(I) of the UST Regulations within the time frame specified by LRSMM. LRSMM will review the proposed CAP and issue further instruction on how to proceed. The CAP shall be implemented in accordance with an *Order of Approval* issued by LRSMM.

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:

**\$15,552**

- (2) The proposed administrative penalty is calculated pursuant to the *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)* (the “Penalty Regulations”) and must be paid to DEM within 30 days of your receipt of the NOV. Payment shall be in the form of a certified check, cashier’s check or money order made payable to the “General Treasury - Water & Air Protection Program” and shall be forwarded to DEM’s Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (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 DEM 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 DEM'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 DEM'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  
DEM - 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 the *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:

Joseph J. LoBianco, Esq.  
DEM - 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 DEM'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 this 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 City of Pawtucket, 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) Joseph J. LoBianco of DEM's Office of Legal Services at (401) 222-6607 or at [joseph.lobianco@dem.ri.gov](mailto:joseph.lobianco@dem.ri.gov). All other inquiries should be directed to Tracey Tyrrell of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7407 or at [tracey.tyrrell@dem.ri.gov](mailto: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: \_\_\_\_\_  
David E. Chopy, Administrator  
DEM Office of Compliance and Inspection

Dated: \_\_\_\_\_

CERTIFICATION

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

GEORGE'S ADVANCED AUTO CARE L.L.C.  
c/o F. George Bazerji, Resident Agent  
176 Central Street  
Central Falls, RI 02863

by Certified Mail.

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## ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, UST  
 File No.: OCI-UST-20-54-00444  
 Respondent: GEORGE'S ADVANCED AUTO CARE L.L.C.

<b>GRAVITY OF VIOLATION</b>					
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), D (2)(a) and D (3)(a) – Use of Single-Walled USTs	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$6,250	2 UST systems	\$12,500
D (2)(b) and D (3)(b) – Failure to perform secondary product pipeline tightness tests	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$1,500	1 violation	\$1,500
<b>SUB-TOTAL</b>					<b>\$14,000</b>

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

<b>ECONOMIC BENEFIT FROM NON-COMPLIANCE</b>			
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:			
- 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 permanently closing the USTs. 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"> <li>▪ Profit Status</li> <li>▪ Filing Status</li> <li>▪ Initial Capital Investment</li> <li>▪ One-time Non-depreciable Expense</li> <li>▪ First Month of Non-compliance</li> <li>▪ Compliance Date</li> <li>▪ Penalty Due Date</li> <li>▪ Useful Life of Pollution Control</li> <li>▪ Equipment Annual Inflation Rate</li> </ul>	For profit, other than a C Corp.  \$50,000  November 2020 15 June 2021 1 June 2021   7.5%	\$1,042

## ADMINISTRATIVE PENALTY SUMMARY (continued)

	<ul style="list-style-type: none"> <li>▪ Discount Compound Rate</li> </ul>		
<p>Avoiding the cost of secondary pipeline tightness testing in 2018. 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"> <li>▪ Profit Status</li> <li>▪ Filing Status</li> <li>▪ Initial Capital Investment</li> <li>▪ One-time Non-depreciable Expense</li> <li>▪ First Month of Non-compliance</li> <li>▪ Compliance Date</li> <li>▪ Penalty Due Date</li> <li>▪ Useful Life of Pollution Control</li> <li>▪ Equipment Annual Inflation Rate</li> <li>▪ Discount Compound Rate</li> </ul>	<p>For profit, other than a C Corp.</p> <p>\$340</p> <p>June 2018 15 June 2021 1 June 2021</p> <p>7.7%</p>	<p>\$272</p>
<p>Avoiding the cost of secondary pipeline tightness testing in 2020. 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"> <li>▪ Profit Status</li> <li>▪ Filing Status</li> <li>▪ Initial Capital Investment</li> <li>▪ One-time Non-depreciable Expense</li> <li>▪ First Month of Non-compliance</li> <li>▪ Compliance Date</li> <li>▪ Penalty Due Date</li> <li>▪ Useful Life of Pollution Control</li> <li>▪ Equipment Annual Inflation Rate</li> <li>▪ Discount Compound Rate</li> </ul>	<p>For profit, other than a C Corp.</p> <p>\$340</p> <p>June 2020 15 June 2021 1 June 2021</p> <p>7.5%</p>	<p>\$238</p>
<p><b><i>SUB-TOTAL</i></b></p>			<p><b>\$1,552</b></p>

### 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 DEM 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 REGULATIONS = \$15,552**

# PENALTY MATRIX WORKSHEET

CITATION: Use of Single-Walled USTs  
 VIOLATION NOS.: D (1), D (2)(a), and D (3)(a)

<b>TYPE</b>		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to permanently close the USTs by the statutory deadline and continued to operate the USTs in violation of the law and the UST Regulations. The operation of single-walled USTs beyond the deadline is prohibited. Single-walled USTs and pipelines present a threat to the environment and public health and safety as there is no secondary containment to prevent releases of petroleum products and hazardous materials directly to the subsurface. Failure to comply increases the likelihood of a release of the regulated substance to the environment and the resultant threats to groundwater resources and public health and safety.</li> <li>(2) <b>Environmental conditions:</b> The Facility is in a densely developed area with numerous potential vapor receptors, including residential structures, commercial structures and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment; however, it is within 190 feet of a GA groundwater classification zone. The Facility is within 1,800 feet of a groundwater reservoir. Upon information and belief, there are no drinking water supply wells in the vicinity. The USTs are within 1,700 feet of the Moshassuck River and within its watershed. The Facility is within 670 feet of Spectacle Pond and within 900 feet of a stream wetland. Respondent did have the USTs tested for tightness on 20 December 2018 and reported that the USTs met the criteria for passing.</li> <li>(3) <b>Amount of the pollutant:</b> Considered, but not utilized for this calculation.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> The volatile nature of gasoline presents both a potential public health hazard (due to potential inhalation of benzene) and a potential public safety hazard (due to the potential for explosion). Gasoline may cause significant soil and groundwater contamination if released to the environment. Certain petroleum constituents are potentially harmful to human health and safety and the environment.</li> <li>(5) <b>Duration of the violation:</b> Approximately 1 month – Respondent was required to remove the USTs before 30 November 2020.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		
(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 permanently closing the USTs before 30 November 2020. Upon information and belief, Respondent has not taken any steps to mitigate the non-compliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department 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 law and the UST Regulations. Respondent, as owner and operator of the Facility, had full control over the occurrence of the violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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

# PENALTY MATRIX WORKSHEET

CITATION: Failure to perform secondary product pipeline tightness tests  
 VIOLATION NOS.: D (2)(b) and D (3)(b)

<b>TYPE</b>		
___ <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u><b>X</b></u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	___ <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.

**DEVIATION FROM THE STANDARD**  
 THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Penalty Regulations

- (1) **The extent to which the act or failure to act was out of compliance:** Respondent failed to procure the services of a DEM-licensed tightness tester to test the secondary product pipelines for UST Nos. 002 and 004 for tightness during each of the years 2014, 2016, 2018 and 2020. Pipeline tightness testing is an important, required component of leak detection programs at UST facilities. Such testing is required biennially when the piping reaches 20 years of age. Upon information and belief, Respondent has never had the secondary piping tested for tightness. Failure to comply would presumably reduce the likelihood of preventing releases of petroleum product from the pipelines.
- (2) **Environmental conditions:** The Facility is in a densely developed area with numerous potential vapor receptors, including residential structures, commercial structures and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment; however, it is within 190 feet of a GA groundwater classification zone. The Facility is within 1,800 feet of a groundwater reservoir. Upon information and belief, there are no drinking water supply wells in the vicinity. The USTs are within 1,700 feet of the Moshassuck River and within its watershed. The Facility is within 670 feet of Spectacle Pond and within 900 feet of a stream wetland. Respondent had the primary product pipelines tested for tightness in May 2019 and reported that the pipelines met the criteria for passing.
- (3) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (4) **Toxicity or nature of the pollutant:** The volatile nature of gasoline presents both a potential public health hazard (due to potential inhalation of benzene) and a potential public safety hazard (due to the potential for explosion). Gasoline can cause significant soil and groundwater contamination if released to the environment. Certain petroleum constituents are potentially harmful to human health and safety and the environment.
- (5) **Duration of the violation:** Approximately 6½ years – June 2014 to present. DEM is only assessing a penalty for the non-compliance that occurred since June 2018.
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (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 secondary pipelines tested during each of the years 2014, 2016, 2018 and 2020. Respondent has yet to mitigate the non-compliance despite receiving notification from DEM, which required that it do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department 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 comply immediately with the UST Regulations. As owner and operator of the Facility, Respondent had complete control over the occurrence of the violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  X  </u> <b>MINOR</b>
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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	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250	\$1,250 to \$2,500 <b>\$1,500</b>	\$250 to \$1,250