

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

**IN RE: RIVERSIDE CLEANSERS CO., INC.
ROZI LLC**

FILE NO.: UST 2016-73-00610

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 Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named parties (“Respondents”) have violated certain statutes and/or administrative regulations under the DEM’s jurisdiction.

B. Administrative History

On 7 December 2016, the DEM issued a Notice of Intent to Enforce (“NIE”) to Respondents for the violations that are the subject of this Notice of Violation (“NOV”). The NIE required specific actions to correct the violations. On 12 December 2016 and 13 December 2016, the NIE was delivered to RIVERSIDE CLEANSERS CO., INC. and ROZI LLC, respectively. As of the date of the NOV, Respondents have failed to fully comply with the NIE.

C. Facts

- (1) The property is located at 970 Willett Avenue, Assessor’s Map 513, Block 25, Parcels 1 and 2 in the city of East Providence (the Property”). The Property includes a convenience store and a motor fuel storage and dispensing system (the “Facility”).
- (2) RIVERSIDE CLEANSERS CO., INC. owns the Property.
- (3) ROZI LLC operates the Facility.
- (4) Underground storage tanks (“USTs” or “tanks”) are located on the Property, which tanks are used for storage of petroleum products and which are subject to the DEM’s *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* (the “UST Regulations”).
- (5) The Facility is registered with the DEM and is identified as UST Facility No. 00610.
- (6) The USTs are double walled tanks with double walled product pipelines and are registered with the DEM for the Facility as follows:

UST ID No.	Date Installed	Capacity	Product Stored
005	2 May 1994	12,000 gallons	Gasoline
006	2 May 1994	8,000 gallons	Gasoline

- (7) On 6 December 2016, the DEM inspected the Facility. The inspection revealed the following:
- (a) Written verification that the interstitial spaces of the USTs were tested for tightness by a DEM-licensed tightness tester during each of the years 2014 and 2016 was not available. Interstitial space tightness test reports for these USTs for the years 2014 and 2016 have not been received by the DEM;
 - (b) Written verification that the interstitial spaces of the product pipelines for the USTs were tested for tightness by a DEM-licensed tightness tester during each of the years 2014 and 2016 was not available. Interstitial space tightness test reports for these product pipelines for the years 2014 and 2016 have not been received by the DEM;
 - (c) The spill containment basins for the USTs were holding apparent mixtures of fuel and water at the time of inspection; and
 - (d) Written verification that the Facility attendant on duty at the time of inspection had been trained as at least a Class C UST facility operator was not available. A training log for all of the Class C operators that had been trained and assigned to the Facility was not available. Upon information and belief, the Facility was being operated without at least one trained Class C operator on duty.
- (8) On 27 February 2017, the DEM received test reports from Compliance Testing Services, Inc. (“CTS”) on behalf of Respondents. The reports indicated that the interstitial spaces of the USTs were tested for tightness on 13 January 2017 and that they met the criteria for passing.
- (9) On 4 May 2017, CTS notified the DEM by electronic correspondence that they were unable to test the double-walled pipelines for the USTs as the pipelines lacked the requisite test boots.
- (10) As of the date of the NOV, Respondents have failed to demonstrate full compliance with the findings described in Section B (7) above.

D. Violation

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

- (1) **DEM's UST Regulations, Rule 8.08(A)(3)** - requiring tightness testing of the interstitial spaces of double-walled USTs at 20 years of age and every 2 years

thereafter.

- (2) **DEM's UST Regulations, Rule 8.09(A)(2)** - requiring tightness testing of the interstitial spaces of double-walled product pipelines at 20 years of age and every 2 years thereafter.
- (3) **DEM's UST Regulations, Rule 8.16(A)(1)** - requiring that spill containment basins be kept free of liquids and debris at all times.
- (4) **DEM's UST Regulations, Rule 8.22(A)** - requiring UST facility owners/operators to have trained Class C operators assigned to the facility.
- (5) **DEM's UST Regulations, Rule 8.22(A)(7)** - requiring UST facility owners/operators to maintain lists of all of the trained Class C operators that have been assigned to the facility.
- (6) **DEM's UST Regulations, Rule 8.22(D)(1)** - requiring UST facility owners/operators to have at least one trained Class C operator on duty at their facility during all operating hours.

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 complete the following remedial actions **within 60 days of receipt of the NOV**:

- (1) Procure the services of a qualified person to repair or modify the product pipelines for the USTs to allow for tightness testing of the interstitial spaces of each pipeline. Any repairs or modifications made shall be completed in compliance with Sections 9.00 and 10.00 of the DEM's UST Regulations. Prior written notification to and approval by the DEM's Office of Waste Management ("OWM") is required.

If it is not possible to repair or modify the pipelines to allow for interstitial space tightness testing, then either:

- (a) Seek a variance from Rule 8.09(A)(2) of the DEM's UST Regulations from the OWM to manage the piping as single-walled pipe until 22 December 2017, at which time the pipelines must be permanently closed, or
 - (b) Remove and replace the product pipelines in full compliance with Sections 9.00 and 10.00 of the DEM's UST Regulations. Prior written notification to and approval by the OWM is required;
- (2) If the product pipelines are repaired or modified to allow for tightness testing of the interstitial spaces of the pipelines, procure the services of a DEM-licensed tightness tester to test the interstitial spaces of the product pipelines for the USTs for

tightness in accordance with Rules 8.09(A)(2) and 8.10 of the DEM's UST Regulations. Original copies of the product pipeline interstitial space tightness test reports shall be submitted to the OWM in accordance with Rule 8.10(D) of the DEM's UST Regulations and to the OC&I.

- (3) The spill containment basins for the USTs shall be evacuated and cleaned in accordance with Rule 8.16(A)(1) of the DEM's UST Regulations. All wastes removed from these basins shall be managed and disposed of or recycled in full compliance with Rule 5.3 of the DEM's *Rules and Regulations for Hazardous Waste Management*. Written or photographic verification of compliance shall be submitted to the OC&I.
- (4) Train all appropriate Facility attendants as (at least) Class C UST facility operators and compile a written training log (copy enclosed) for the Class C operators that have been trained and assigned to the Facility, as per Rules 8.22 (A) and (D) of the DEM's UST Regulations. A copy of the completed training log shall be submitted to the OC&I. The Facility shall henceforth be operated only with at least 1 trained Class C operator on duty during all hours of operation, as per Rule 8.22 of the DEM's UST Regulations.

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:

\$6,861

- (2) The proposed administrative penalty is calculated pursuant to the DEM's *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the 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 Account" and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against Respondents 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 the Director 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 the 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 the 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
One Capitol Hill, 4TH Floor
Providence, RI 02903

(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 Rule 7.00(b) of the DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.

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

Christina Hoefsmit, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
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 the 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 with regard to 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 city of East Providence, 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) Christina Hoefsmit at the DEM's Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of the DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7407.

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, Chief
DEM - Office of Compliance and Inspection

Dated: _____

CERTIFICATION

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

RIVERSIDE CLEANSERS CO., INC.
c/o Richard A. Bogue, Esq., Registered Agent
55 Pine Street, 5TH Floor
Providence, RI 02903

ROZI LLC
c/o Rita Gandhi, Registered Agent
1 Mitris Boulevard
Lincoln, RI 02865

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY	
Program:	OFFICE OF COMPLIANCE AND INSPECTION, UST COMPLIANCE
File No.:	UST 2016-73-00610
Respondents:	RIVERSIDE CLEANSERS CO., INC. and ROZI LLC

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) – Failure To Perform Tightness Test (USTs)	Type II (\$12,500 Max. Penalty)*	Minor	\$1,500	1 violation	\$1,500
D(2) – Failure To Perform Tightness Test (Product Pipelines)	Type II (\$12,500 Max. Penalty)*	Moderate	\$2,500	1 violation	\$2,500
D (4), (5) and (6) - Failure To Assign/ Operate With Class C Operators	Type II (\$12,500 Max. Penalty)*	Minor	\$1,875	1 violation	\$1,875
SUB-TOTAL					\$5,875

*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 ARE IN COMPLIANCE. 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
Failure to test the interstitial spaces of the USTs and product pipelines for tightness. The economic benefit of non-compliance was determined by using an EPA computer model entitled "BEN" that performs a detailed economic analysis. The dates and dollar amounts used in this analysis are listed in this table.	2014 Tests 2 UST tests @ \$289 per test = \$578 2 product pipeline tests @ \$203 per test = \$406	\$733
	2016 Tests 2 product pipeline tests @ \$203 per test = \$406	\$253
SUB-TOTAL		\$986

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 the 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 = \$6,861

PENALTY MATRIX WORKSHEET

CITATION:	Failure To Perform Tightness Test (USTs)
VIOLATION NO.:	D (1)

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

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

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** Respondents failed to have the interstitial spaces of the USTs tested for tightness during each of the years 2014 and 2016. Such tightness testing is required when tanks reach 20 years of age and every other year thereafter. These tests are of significant importance to the regulatory program. Failure to comply could allow a compromised or faulty tank to remain in use and result in a release of petroleum product to the environment.
- (B) **Environmental conditions:** The Facility is located in a densely developed area with numerous potential vapor receptors including residential structures, commercial structures and underground utilities. The Facility is located in a GB groundwater classification zone, which are groundwater resources presumed to be unsuitable for drinking water use without treatment. There are no known drinking water supply wells proximate to the Facility. The Facility is located within 600 feet of freshwater wetlands associated with Annawomscutt Brook. The Facility is located in the Providence River watershed.
- (C) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (D) **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 is capable of causing significant soil and groundwater contamination if released to the environment.
- (E) **Duration of the violation:** Approximately 2 years - from 31 December 2014 until 13 January 2017. Respondents had the USTs tested on 13 January 2017 and it was reported that the tanks met the criteria for passing.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to prevent the non-compliance by having the interstitial spaces of the USTs tested for tightness during each of the years 2014 and 2016. Respondents had the USTs tested on 13 January 2017 in an effort to mitigate the non-compliance.
- (H) **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.
- (I) **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 Respondents for the failure to comply with the requirements set forth Rule 8.08(A)(3) of the DEM's UST Regulations. As owners and operators of the Facility, Respondents had full control over the occurrence of the violation. The UST interstitial space tightness testing requirements are clearly established in the regulations.
- (J) **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 \$1,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION:	Failure To Perform Tightness Test (Product Pipelines)	
VIOLATION NO.:	D	(2)

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

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

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** Respondents failed to have the interstitial spaces of the product pipelines for the USTs tested for tightness during each of the years 2014 and 2016. Such tightness testing is required when pipelines reach 20 years of age and every other year thereafter. These tests are of significant importance to the regulatory program. Failure to comply could allow a compromised or faulty pressurized pipeline to remain in use and result in a release of petroleum product to the environment.
- (B) **Environmental conditions:** The Facility is located in a densely developed area with numerous potential vapor receptors including residential structures, commercial structures and underground utilities. The Facility is located in a GB groundwater classification zone, which are groundwater resources presumed to be unsuitable for drinking water use without treatment. There are no known drinking water supply wells proximate to the Facility. The Facility is located within 600 feet of freshwater wetlands associated with Annawomscutt Brook. The Facility is located in the Providence River watershed.
- (C) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (D) **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 is capable of causing significant soil and groundwater contamination if released to the environment.
- (E) **Duration of the violation:** Approximately 2 ½ years - 31 December 2014 to present.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to prevent the non-compliance by having the interstitial spaces of the product pipelines tested for tightness during each of the years 2014 and 2016. Respondents procured the services of a licensed tightness tester to perform such testing in January 2017; however, the tester reported to the DEM that the test could not be performed due to the way the pipelines are configured.
- (H) **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.
- (I) **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 Respondents for the failure to comply with the requirements set forth Rule 8.09(A)(2) of the DEM's UST Regulations. As owners and operators of the Facility, Respondents had full control over the occurrence of the violation. The product pipeline interstitial space tightness testing requirements are clearly established in the regulations.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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

PENALTY MATRIX WORKSHEET

CITATION:	Failure To Assign/ Operate With Class C Operators
VIOLATION NOS.:	D (4), (5) and (6)

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

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

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** Respondents failed to assign and operate with Class C UST facility operators. At the time of inspection, the Facility operator was unable to present written verification that he had been trained as at least a Class C operator. Respondents failed to provide to the DEM a training log for all of the Class C operators that had been trained and assigned to the Facility. The DEM's UST Regulations expressly require all owners/operators of regulated UST facilities to have trained Class C operators assigned to their facilities and prohibit the operation of UST facilities without at least one trained Class C operator on duty during all operating hours.
- (B) **Environmental conditions:** The Facility is located in a densely developed area with numerous potential vapor receptors including residential structures, commercial structures and underground utilities. The Facility is located in a GB groundwater classification zone, which are groundwater resources presumed to be unsuitable for drinking water use without treatment. There are no known drinking water supply wells proximate to the Facility. The Facility is located within 600 feet of freshwater wetlands associated with Annawomscutt Brook. The Facility is located in the Providence River watershed.
- (C) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (D) **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 is capable of causing significant soil and groundwater contamination if released to the environment.
- (E) **Duration of the violation:** Approximately 2 ½ years - December 2014 to the present.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to prevent the non-compliance by training all of their UST facility operators as at least Class C operators and compiling a training log for all of the Class C operators that had been trained and assigned to the Facility. The DEM has no knowledge of what steps, if any, Respondents have taken to mitigate the non-compliance, despite receiving the NIE from the DEM, which required that they do so.
- (H) **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.
- (I) **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 Respondents for the failure to comply immediately with all of the requirements set forth in the Rule 8.22 of the DEM's UST Regulations. As owners and operators of the Facility, Respondents had full control over the occurrence of the violations. The UST facility operator training requirements are clearly established in the DEM's UST Regulations.
- (J) **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 \$1,875	\$250 to \$1,250