NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7220 | F: (716) 851-7226
www.dec.ny.gov

Notice of Violation

July 19, 2018

Via electronic and regular mail

Matthew Schimpf
Environmental Manager
Tonawanda Coke Corporation
3875 River Road
Tonawanda, New York 14150

Re: Petroleum Bulk Storage (PBS) Program
Facility Inspection - 6 NYCRR Parts 612-614
PBS # 9-030058; Insp # 67470

Dear Mr. Schimpf:

On June 20, 2018, Mr. Peter Reuben visited the above facility to determine compliance with New York State's Petroleum Bulk Storage regulations. The following violations were identified during that inspection and need immediate attention to bring this facility into compliance. Citations to the applicable regulations are noted in brackets and pertain to the tanks listed. A copy of the inspection checklist is enclosed for your reference.

The law requires that you comply fully with the PBS regulations. You must correct all of the violations noted below within the stated time frame and submit required documentation.

Violations

PBS Registration Certificate – Display
[613-1.9(g)]

The registration certificate is not displayed. The operator must display a current registration certificate in a conspicuous location at the facility at all times.

Unregistered tank number 1 and 2
Existing Facilities - Unregistered tanks
[613-1.9(a)]

One or more regulated tank systems at this PBS facility are not registered with

NYSDEC.

The contents of the two 10,000-gallon tar tanks meet the current definition of petroleum and therefore these tanks must be immediately added to the registration.

Aboveground Storage Tank numbers D02, K01-K05, B01, 103
Response to spills and overfills
[613-4.4(d)(1)]

The inspection revealed evidence of an unreported petroleum spill. A facility must report every spill to the DEC Spill Hotline (518-457-7362) within two hours after discovery, contain the spill, and begin appropriate corrective action.

Petroleum releases were observed on the floor under tank numbers K01-K05. This was addressed at the time of inspection and the cleanup was documented in a June 22, 2018 communication that included a photograph of the floor.

Product was observed in the secondary containment dike for tank number D02.

Dark staining was observed outside the secondary containment for tank number B01.

Dark staining was observed on the ground under piping adjacent to the chemical bulk storage transfer station secondary containment for tank number I03.

Spill number 1804001 was established to document the above spills/releases.

Aboveground Storage Tank number D02
Category 3 ASTs – not made to AST standard
[613-4.1(b)(1)(i)]

Every AST with a design capacity of 60 gallons or greater must be constructed of steel and must be designed and utilized according to one of the following codes of practice for category 3 ASTs: UL 142, API 620, API 650, CAN4-S601-M84, CAN4-S630-M84.

The above cited tank is a STI-P3 tank constructed to UL-58, UL1746 Part 1 and does not meet the accepted tank construction standards listed above.

Aboveground Storage Tank numbers B01, D02
Secondary containment - not maintained
613-4.2(a)(6)]

The secondary containment systems for the above referenced tanks are not

being properly maintained. The poor condition of the secondary containment indicates that the secondary containment system will not prevent discharged petroleum from reaching the land or waters of the State.

The secondary containment for the above tanks have a secondary containment that is not maintained. The vegetation and debris present prevents full inspection for any structural defects in the containment area.

Aboveground Storage Tank number B01
Secondary containment - not meeting requirements
[613-4.1(b)(1)(v)]

Any AST that has a design capacity of 10,000 gallons or more must have secondary containment that meets the following requirements: (1) be able to contain petroleum leaked from any portion of the AST until it is detected and removed, and (2) be able to prevent the release of petroleum.

The secondary containment for the above tank doesn't meet requirements. Vegetation and debris was observed in the secondary containment preventing full inspection. The presence of the debris and vegetation prevents detection of any petroleum leaks.

Aboveground Storage Tank number B01
Check valve - no valve
[613-4.1(b)(5)(iii); 4.1(c)(3)(iii)]

The piping system associated with the above referenced tank is not equipped with a check valve. Every fill pipe leading to a pump-filled AST must be equipped with a properly functioning check valve or equivalent device which provides automatic protection against backflow. A check valve is required only when the piping arrangement of the fill pipe is such that backflow from the receiving tank is possible.

A check valve was not observed at the remote fill port for tank number B01 at the time of inspection. A check valve was installed and photographs submitted on July 10, 2018. No further action is required for this violation.

Aboveground Storage Tank number D02
Monthly inspections - no records
[613-4.3(e)]

Monthly inspection reports for the above referenced tank are not being maintained or are insufficient. Reports for each monthly inspection must be maintained for a period of at least three years.

Tank # B01 is equipped with interstitial monitoring and it is not documented as being monitored on the monthly inspection reports.

Aboveground Storage Tank numbers K02, K04, K05
Labeling – incomplete
[613-4.2(a)(3)]

The above referenced tanks have incomplete labels. Every AST must be marked (for example, with stenciled letters) with the tank registration identification number, as well as the tank design and working capacities.

The above cited tanks are missing the working capacity on the tank labels.

Aboveground Storage Tank numbers K01, K03
Labeling - no label
[613-4.2(a)(3)]

The above referenced tanks are not properly labeled. Every AST must be marked (for example, with stenciled letters) with the tank registration identification number, as well as the tank design and working capacities.

The above cited tanks were missing the tank labels.

Corrective Actions

You must submit the following documentation to this office:

1. An updated PBS registration application adding the two 10,000-gallon tar storage tanks to the registration and updating the contact person information.

2. A photograph showing the PBS registration certificate has been posted at the facility.

3. A photograph showing that the petroleum has been removed from the secondary containment dike for tank number D02.

4. Photographs and documentation showing the dark staining near tank numbers I03 and B01 have been investigated and remediated.

5. A schedule with dates to close tank D02.

6. Photographs showing all the debris and vegetation has been removed allowing full inspection of the secondary containment for tank # B01.

7. Photographs showing the tank labels have all required information on tank # K01, K02, K03, K04 and K05.

The above documents and photographs may be submitted via email to R9.PBS@dec.ny.gov . The facility PBS number and the title "INSPECTION RESPONSE" must be included on the subject line of any emails submitted to demonstrate compliance. Review of emails sent without this identifying information may be delayed.

As a result of these violations you are subject to enforcement by this Department. Pursuant to Environmental Conservation Law Section 71-1929, you may be liable for a civil penalty of up to $37,500 per day for each of the above noted violations. The violations identified in this letter require immediate attention. Delays in correcting the violations noted above will affect the amount of penalties for which you will be liable. In addition, under Environmental Conservation Law Section 71-1933, a person may be held criminally liable if any of the foregoing violations was the result of intentional, knowing or criminally negligent conduct.

Note that the inspection may not have disclosed all violations that exist at this site. You are responsible for ensuring that the entire facility is in compliance with applicable requirements.

If you have any questions, please contact me at (716) 851-7220 or <mary.mcintosh@dec.ny.gov>

Sincerely,

Mary E. McIntosh

Ms. Mary E. McIntosh
Regional Spills Geologist

ec: Peter Reuben, Environmental Chemist 1
Theresa Mucha, Associate Attorney
Andrea Skalski, Professional Engineer 1 (Environmental)
Ben McPherson, Assistant Engineer (Environmental)
Chad Staniszewski, Regional DER Engineer

New York State Department of Environmental Conservation – Petroleum Bulk Storage (PBS) Inspection Form

DATE: 6/20/2018

DEC INSPECTOR: Peter Reuben

FACILITY REP. Robert Klovek

PBS #: 9 - 030058 or ☐ Unregistered

NAME & TITLE Plant Superintendent

FACILITY NAME: Tonawanda Coke Corp.

CLASS A OPERATOR NAME & AUTH #:

FACILITY ADDRESS: 3875 River Road

Tonawanda, NY 14150

CLASS B OPERATOR NAME & AUTH #:

FACILITY PHONE NUMBER: 716-876-6222

Facility-Level Information

1. Is the inspection announced or unannounced?	☑ Announced ☐ Unannounced
2. Is the registration certificate posted at the facility?	☐ Y ☑ N ☐ 1 (no access)
3. Is the registration information current and correct?	☐ Y ☑ N ☐ 1 (expired registration) ☐ 2 (unregistered facility) ☑ 3 (unregistered tank)

Tank-Specific Information — Tank Registration #	B01	B10	D02	E02	I01
Applicable Subpart: **2 / 3 / 4**	4	4	4	4	4
Product Stored/Tank Volume	0008 / 33,000	0009 / 900	0022 / 10,000	0008 / 1,000	0008 / 6,000
Date Installed	1/35	6/85	9/14	12/13	10/04
4. Are monitoring/observation wells marked and secured? **Y / N / X** (no wells)	X	X	X	X	X
5. Have dispenser sumps been properly maintained? **Y / N** (accumulation of product) / **X** (no sump; not required) / **1** (accumulation of water/debris) / **2** (no access) / **3** (sump required but not present)	X	X	X	X	X
6. For motor fuel tank systems, with pressurized piping, are shear valves properly installed and operable? **Y / N** (no shear valve) / **X** (not pressurized piping) / **1** (inoperative valve) / **2** (improperly installed) / **3** (no access)					
7. Was the tank properly permanently closed or did it undergo a change-in-service? **Y / N / X** (active or out-of-service tank) / **1** (tank closed w/o notification)	X	X	X	X	X
8. If the tank system is out-of-service, has it been out-of-service for more than 12 months? **Y / N / X** (active tank) / **1** (permanently closed tank system)	X	X	X	X	X
9. Were any spills observed? (Include suspected releases from leak detection equipment and uninvestigated inventory discrepancies.) **Y / N**	N	N	Y	N	N
10. Have tank top sumps been properly maintained? **Y / N** (accumulation of product) / **X** (no sump) / **1** (accumulation of water/debris) / **2** (no access)	X	X	X	X	Y
11. Have spill buckets been properly maintained? **Y / N** (accumulation of product) / **X** (no spill bucket) / **1** (accumulation of water/debris) / **2** (no access)	X	X	X	X	X
12. Is the fill port/tank color coded/marked to identify the product in the tank system? **Y / N / X** (day tank) / **1** (incorrectly color coded/marked)	Y	Y	Y	Y	Y

COMPLIANCE WITH REGULATORY REQUIREMENTS WAS ASSESSED VIA THE FOLLOWING METHODS:
FIELD OBSERVATION, RECORDS REVIEW, AND/OR INTERVIEW WITH FACILITY REPRESENTATIVE

Subpart 4 AST Systems	B01	B10	D02	E02	I01
53. For Cat. 2 and 3 ASTs, does the AST meet standards? **Y** / **X** (Cat. 1 AST) If not, how is the tank deficient? **1** (tank not welded steel) / **2** (no surface coating) / **3** (tank resting on soil w/o cathodic protection) / **4** (tank on grade w/o impermeable barrier) / **5** (no leak monitoring between tank & barrier)	X	X	N	Y	Y
54. Is the cathodic protection system being evaluated regularly? **Y** / **X** (no CP system required) / **1** (no annual survey) / **2** (no 60-day inspection for impressed current systems) / **3** (records not maintained) / **4** (minimum protection not provided/failed annual survey) / **5** (operator has not completed appropriate repair in response to test results)	X	X	X	X	X
55. For ASTs ≥10,000 gallons (or ASTs <10,000 gallons within 500 feet of a sensitive receptor), is the secondary containment adequately designed and in good condition? **Y** / **N** (no secondary containment) / **X** (secondary containment not required) / **1** (secondary containment not maintained) / **2** (inadequate design)	1	X	1	X	X
56. For ASTs <10,000 gallons that are using alternatives to secondary containment, are DER-25 issues addressed? **Y** / **N** / **X** (not required/applicable) / **1** (equipment not maintained)	X	Y	X	Y	Y
57. Are dike drain valves locked in a closed position? **Y** / **N** (unlocked) / **X** (no dike/discharge pipe) / **1** (no valve on discharge pipe)	X	X	X	X	X
58. Does the AST have a gauge, high-level alarm, high-level liquid pump cut-off controller, or an equivalent device? **Y** / **N** / **1** (inoperative)	Y	Y	Y	Y	Y
59. Is the tank marked with design & working capacities and tank ID number? **Y** / **N** / **1** (incomplete label)	Y	Y	Y	Y	Y
60. Is a solenoid or equivalent valve in place for gravity-fed motor fuel dispensers? **Y** / **N** / **X** (AST system not storing motor fuel OR dispensers not gravity-fed) / **1** (inoperative) / **2** (valve not adjacent to and downstream from the operating valve)	Y	X	X	X	X
61. Is a check valve in place for pump-filled ASTs with remote fills? **Y** / **N** / **X** (no remote fill) / **1** (inoperative)	N	X	Y	X	X
62. Is an operating valve in place on every line with gravity head? **Y** / **N** / **X** (no gravity head on line) / **1** (inoperative)	X	Y	X	X	X
63. Does the facility conduct monthly inspections for all AST systems? **Y** / **N** / **1** (records not maintained)	Y	Y	N	Y	Y
64. Does the facility conduct ten-year inspections for Cat. 1 AST systems? **Y** / **N** / **X** (not required per Part 613-4.3(a)(1)(iii) OR Cat. 2/3 AST system) / **1** (records not maintained)	X	X	X	X	X
65. Does the facility conduct tightness testing at ten-year intervals for underground Cat. 1 piping? **Y** / **N** / **X** (Cat. 2/3 piping) / **1** (test report not submitted)	X	X	X	X	X

COMPLIANCE WITH REGULATORY REQUIREMENTS WAS ASSESSED VIA THE FOLLOWING METHODS:
FIELD OBSERVATION, RECORDS REVIEW, AND/OR INTERVIEW WITH FACILITY REPRESENTATIVE

Tank-Specific Information Tank Registration #	K01	K02	K03	K04	K05
Applicable Subpart: **2 / 3 / 4**	4	4	4	4	4
Product Stored/Tank Volume	0021 275	0010 275	0015 275	1045 275	1045 275
Date Installed	6/06	6/06	6/06	6/06	6/06
4. Are monitoring/observation wells marked and secured? **Y / N / X** (no wells)	x	x	x	x	x
5. Have dispenser sumps been properly maintained? **Y / N** (accumulation of product) / **X** (no sump; not required) / **1** (accumulation of water/debris) / **2** (no access) / **3** (sump required but not present)	X	X	X	X	X
6. For motor fuel tank systems, with pressurized piping, are shear valves properly installed and operable? **Y / N** (no shear valve) / **X** (not pressurized piping) / **1** (inoperative valve) / **2** (improperly installed) / **3** (no access)	X	X	X	X	X
7. Was the tank properly permanently closed or did it undergo a change-in-service? **Y / N / X** (active or out-of-service tank) / **1** (tank closed w/o notification)	X	X	X	X	X
8. If the tank system is out-of-service, has it been out-of-service for more than 12 months? **Y / N / X** (active tank) / **1** (permanently closed tank system)	X	X	X	X	X
9. Were any spills observed? (Include suspected releases from leak detection equipment and uninvestigated inventory discrepancies.) **Y / N**	Y	Y	Y	Y	Y
10. Have tank top sumps been properly maintained? **Y / N** (accumulation of product) / **X** (no sump) / **1** (accumulation of water/debris) / **2** (no access)	X	X	X	X	X
11. Have spill buckets been properly maintained? **Y / N** (accumulation of product) / **X** (no spill bucket) / **1** (accumulation of water/debris) / **2** (no access)	X	X	X	X	X
12. Is the fill port/tank color coded/marked to identify the product in the tank system? **Y / N / X** (day tank) / **1** (incorrectly color coded/marked)	X	X	X	X	X

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Subpart 4 AST Systems	K01	K02	K03	K04	K05
53. For Cat. 2 and 3 ASTs, does the AST meet standards? **Y** / **X** (Cat. 1 AST) If not, how is the tank deficient? **1** (tank not welded steel) / **2** (no surface coating) / **3** (tank resting on soil w/o cathodic protection) / **4** (tank on grade w/o impermeable barrier) / **5** (no leak monitoring between tank & barrier)	Y	Y	Y	Y	Y
54. Is the cathodic protection system being evaluated regularly? **Y** / **X** (no CP system required) / **1** (no annual survey) / **2** (no 60-day inspection for impressed current systems) / **3** (records not maintained) / **4** (minimum protection not provided/failed annual survey) / **5** (operator has not completed appropriate repair in response to test results)	X	X	X	X	X
55. For ASTs ≥10,000 gallons (or ASTs <10,000 gallons within 500 feet of a sensitive receptor), is the secondary containment adequately designed and in good condition? **Y** / **N** (no secondary containment) / **X** (secondary containment not required) / **1** (secondary containment not maintained) / **2** (inadequate design)	X	X	X	X	X
56. For ASTs <10,000 gallons that are using alternatives to secondary containment, are DER-25 issues addressed? **Y** / **N** / **X** (not required/applicable) / **1** (equipment not maintained)	X	X	X	X	X
57. Are dike drain valves locked in a closed position? **Y** / **N** (unlocked) / **X** (no dike/discharge pipe) / **1** (no valve on discharge pipe)	X	X	X	X	X
58. Does the AST have a gauge, high-level alarm, high-level liquid pump cut-off controller, or an equivalent device? **Y** / **N** / **1** (inoperative)	Y	Y	Y	Y	Y
59. Is the tank marked with design & working capacities and tank ID number? **Y** / **N** / **1** (incomplete label)	N	1	N	1	1
60. Is a solenoid or equivalent valve in place for gravity-fed motor fuel dispensers? **Y** / **N** / **X** (AST system not storing motor fuel OR dispensers not gravity-fed) / **1** (inoperative) / **2** (valve not adjacent to and downstream from the operating valve)	X	X	X	X	X
61. Is a check valve in place for pump-filled ASTs with remote fills? **Y** / **N** / **X** (no remote fill) / **1** (inoperative)	X	X	X	X	X
62. Is an operating valve in place on every line with gravity head? **Y** / **N** / **X** (no gravity head on line) / **1** (inoperative)	X	X	X	X	X
63. Does the facility conduct monthly inspections for all AST systems? **Y** / **N** / **1** (records not maintained)	Y	Y	Y	Y	Y
64. Does the facility conduct ten-year inspections for Cat. 1 AST systems? **Y** / **N** / **X** (not required per Part 613-4.3(a)(1)(iii) OR Cat. 2/3 AST system) / **1** (records not maintained)	X	X	X	X	X
65. Does the facility conduct tightness testing at ten-year intervals for underground Cat. 1 piping? **Y** / **N** / **X** (Cat. 2/3 piping) / **1** (test report not submitted)	X	X	X	X	X

COMPLIANCE WITH REGULATORY REQUIREMENTS WAS ASSESSED VIA THE FOLLOWING METHODS:
FIELD OBSERVATION, RECORDS REVIEW, AND/OR INTERVIEW WITH FACILITY REPRESENTATIVE

6 NYCRR 613-	Description/Notes
3.)	Two 10,000 gal. tar / crude tanks must be registered.
9.)	Sheen and oil observed in secondary containment for Tank # D02.
53.)	Tank # D02 is STIP3 UST and not an AST.
55.)	Vegetation, debris, water, petroleum in secondary containment.
61.)	Tank # B01 doesn't have a check valve as required.
63.)	Interstitial space not checked monthly on Tank # B01.
1.)	PBS registration certificate not posted at facility.
9.)	petroleum spill observed on floor in at Tanks K01-K05
59.)	Tank #K01 and K03 missing tank labels.
59.)	Tank #K02, K04, K05 missing working capacity on tank label.
Note:	* Spill at tank K01-K05 is was being cleaned up after it was brought to the attention of site representative.
	* Spill at D02 likely from piping. Site representative will have dike cleaned and taken to the mixing pad.