

**STATE OF NEW YORK**  
**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Alleged Violations of Article 17 of the New York State Environmental Conservation Law (ECL) and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR),

- by -

**ORDER**

DEC Case No.  
R2-20130521-196  
R2-20160927-328  
R2-20180410-105

**A.A. TRUCK RENTING CORP.,**

Respondent.

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This administrative enforcement proceeding concerns alleged violations of former 6 NYCRR parts 612 and 613 and current 6 NYCRR part 613 at two petroleum bulk storage (PBS) facilities owned by respondent A.A. Truck Renting Corp. and located at 355 Food Center Drive, Bronx, New York (Food Center Drive), and 500 Oak Point Avenue, Bronx, New York (Oak Point Avenue).

Staff of the New York State Department of Environmental Conservation (Department) commenced this proceeding by service of a notice of motion for order without hearing in lieu of complaint dated September 27, 2018. Service was made on the New York State Department of State pursuant to Business Corporation Law § 306 on November 2, 2018. In its papers, Department staff sets forth the following eight causes of action, alleging that respondent A.A. Truck Renting Corp.:

1. a. Failed to renew the registration of the Food Center Drive facility in violation of former 6 NYCRR 612.2(a)(2);  
b. Failed to renew the registration of the Oak Point Avenue facility in violation of current 6 NYCRR 613-1.9(c);
2. Failed to maintain a current and accurate PBS registration for the Food Center Drive facility in violation of current 6 NYCRR 613-1.9(a);
3. Failed to display a current and valid PBS registration at the Food Center Drive facility in violation of former 6 NYCRR 612.2(e);
4. Failed to properly color code the fill port associated with underground storage tank (UST) #002 at the Food Center Drive facility in violation of former 6 NYCRR 613.3(b)(1);

5. a. Failed to test UST #002 for tightness within five years from the date of the previous test at the Food Center Drive facility in violation of former 6 NYCRR 613.5(a);  
b. Failed to test UST #002 for tightness at yearly intervals at the Food Center Drive facility in violation of current 6 NYCRR 613-3.3(b)(1)(i);
6. a. Failed to conduct an annual line tightness test on the pressurized piping associated with UST #001 at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.3(b)(2)(i)(a)(2);  
b. Failed to conduct an annual line tightness test on the pressurized piping associated with UST #002 at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.3(b)(2)(i)(a)(2);
7. a. Failed to submit the results of the periodic tightness test of UST #001 at the Food Center Drive facility in violation of former 6 NYCRR 613.5(a)(4);  
b. Failed to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #001 at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.3(e)(1);  
c. Failed to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #002 at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.3(e)(1);  
d. Failed to submit the results of the annual line tightness test on the pressurized piping associated with UST #001 at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.3(e)(3);  
e. Failed to submit the results of the annual line tightness test on the pressurized piping associated with UST #002 at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.3(e)(3); and
8. Failed to maintain adequate records for the Class A, Class B, and Class C Operators at the Oak Point Avenue facility in violation of current 6 NYCRR 613-2.5(f).

Based upon these alleged violations, Department staff requests that I: (a) hold respondent in violation of the regulations as set forth in the eight causes of action; (b) assess a civil penalty in the amount of eighty-eight thousand fifty dollars (\$88,050); and (c) direct respondent to bring the facilities into compliance with all relevant ECL and NYCRR provisions immediately.

Respondent did not file or serve a response to staff's motion papers. Accordingly, Department staff's motion is an unopposed motion for order without hearing (*see* 6 NYCRR 622.12).

The matter was assigned to Administrative Law Judge (ALJ) Michael S. Caruso. In a ruling on motion for order without hearing dated April 5, 2019 (April 2019 Ruling), ALJ Caruso set forth findings of fact, granted staff's motion for order without hearing on the issue of liability against respondent on the first, second, third, fourth, fifth, seventh and eighth causes of action. ALJ Caruso denied staff's motion on the sixth cause of action and reserved ruling on the civil penalty and relief requested until a hearing could be held on the remaining cause of action. By letter dated April 11, 2019, staff advised the ALJ and respondent that they would no longer be

pursuing the sixth cause of action. ALJ Caruso prepared the attached summary report dated April 15, 2019 (Summary Report), which I adopt as my decision in this matter.<sup>1</sup>

### **Liability**

I concur with the ALJ's determination that Department staff is entitled to a finding of liability on the first through fifth, seventh and eighth causes of action (*see* Summary Report at 2-3; April 2019 Ruling at 6-10).

### **Penalty**

In its motion, Department staff requested a civil penalty in the amount of eighty-eight thousand fifty dollars (\$88,050). Pursuant to ECL 71-1929(1), a civil penalty of thirty-seven thousand five hundred dollars (\$37,500) per day may be imposed for each of the violations found here.

As previously noted, by letter dated April 11, 2019, staff elected not to pursue the sixth cause of action for which it had requested a civil penalty of thirty thousand dollars (\$30,000) (*see* Affirmation of Grace H. Nam, Esq., dated September 27, 2018 [Nam Affirmation] at 12, ¶ 67). In consideration of staff's withdrawal of the sixth cause of action, a civil penalty in the amount of (\$58,050) fifty-eight thousand fifty dollars is appropriate.<sup>2</sup> In consideration of the penalty amount being imposed, I am directing that respondent submit payment of that amount to the Department within thirty (30) days of the service of this order rather than the fifteen (15) days recommended in the Summary Report.

### **Corrective Action**

Department staff has requested that respondent be directed "to bring the Food Center Drive and Oak Point Facilities into compliance with all relevant ECL and NYCRR provisions immediately" (*see* Nam Affirmation at 17 [Wherefore Clause number 3]). As discussed by the ALJ, respondent is already required to comply with the ECL and regulations, and further language to that effect is not needed (*see* Summary Report at 4-5).

Although staff does not request specific corrective actions, staff discussed various deficiencies that were identified during the May 2016 inspection of the Food Center Drive facility and the January 2018 inspection of the Oak Point Avenue facility (*see e.g.* Affidavit of Leszek Zielinski, P.E., sworn to September 27, 2018, ¶¶ 13 [i-ii] and 17 [i-v]), and which deficiencies are the basis for staff's various causes of action. The ALJ recommends that the

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<sup>1</sup> The Summary Report notes that the April 2019 Ruling sets forth the findings of fact, which findings I hereby adopt.

<sup>2</sup> Although staff requested and the ALJ recommended that a civil penalty of four thousand five hundred dollars (\$4,500) be imposed for the eighth cause of action, staff appears to assume three separate counts for this cause of action. On the other hand, the ALJ concludes that the eighth cause of action consists of one count (*see* Summary Report at 4). Because both staff and the ALJ have proposed the same penalty amount, and each would be supported by the statutory penalty, I do not reach whether the cause of action consists of one or three counts.

deficiencies be corrected within thirty (30) days of service of my order upon respondent, and I concur with that recommendation (*see* Summary Report at 6). These corrective actions include:

- conducting a tightness test on UST #002 tank system located at the Food Center Drive facility and submitting the results;
- conducting a functionality test for the automatic line leak detector on the pressurized piping associated with USTs #001 and #002 located at the Oak Point Avenue facility and submitting the results;
- submitting identification of the Class A, Class B and Class C operators for the Oak Point Avenue facility and proof verifying the successful completion of training and testing for the Class A, Class B and Class C operators; and
- submitting the test report for the annual line tightness test on the pressurized piping associated with USTs #001 and #002 located at the Oak Point Avenue facility.

Respondent shall, within thirty (30) days of service of this order on respondent, submit proof, including photographs, in a form and manner acceptable to Department staff, that documents the completion of each corrective action. I encourage respondent to contact Department staff to discuss the applicable regulatory requirements to ensure that any corrective actions that respondent undertakes comply with those requirements.

I also direct that, within fifteen (15) days of service of this order, respondent submit a complete and correct registration application for the Food Center Drive facility together with the applicable registration fees, and submit a complete and correct registration application for the Oak Point Avenue facility together with the applicable registration fees.

**NOW, THEREFORE**, having considered this matter and being duly advised, it is **ORDERED** that:

- I. Department staff's motion for order without hearing on staff's first, second, third, fourth, fifth, seventh, and eighth causes of action, pursuant to 6 NYCRR 622.12, is granted.
- II. Based on record evidence, respondent A.A. Truck Renting Corp. is adjudged to have violated the following:
  - A. 1. Former 6 NYCRR 612.2(a)(2) for failing to renew the registration of the Food Center Drive facility;
  2. Current 6 NYCRR 613-1.9(c) for failing to renew the registration of the Oak Point Avenue facility;
  - B. Current 6 NYCRR 613-1.9(a) for failing to maintain a current and accurate PBS registration for the Food Center Drive facility;

- C. Former 6 NYCRR 612.2(e) for failing to display a current and valid PBS registration at the Food Center Drive facility;
  - D. Former 6 NYCRR 613.3(b)(1) for failing to properly color code the fill port associated with UST #002 at the Food Center Drive facility;
  - E.
    - 1. Former 6 NYCRR 613.5(a) for failing to test UST #002 for tightness within five years from the date of the previous test at the Food Center Drive facility;
    - 2. Current 6 NYCRR 613-3.3(b)(1)(i) for failing to test UST #002 for tightness at yearly intervals at the Food Center Drive facility;
  - F.
    - 1. Former 6 NYCRR 613.5(a)(4) for failing to submit the results of the periodic tightness test of UST #001 at the Food Center Drive facility;
    - 2. Current 6 NYCRR 613-2.3(e)(1) for failing to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #001 at the Oak Point Avenue facility;
    - 3. Current 6 NYCRR 613-2.3(e)(1) for failing to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #002 at the Oak Point Avenue facility;
    - 4. Current 6 NYCRR 613-2.3(e)(3) for failing to submit the results of the annual line tightness test on the pressurized piping associated with UST #001 at the Oak Point Avenue facility;
    - 5. Current 6 NYCRR 613-2.3(e)(3) for failing to submit the results of the annual line tightness test on the pressurized piping associated with UST #002 at the Oak Point Avenue facility; and
  - G. Current 6 NYCRR 613-2.5(f) for failing to maintain adequate records for the Class A, Class B, and Class C Operators at the Oak Point Avenue facility.
- III. Respondent A.A. Truck Renting Corp. is assessed a civil penalty of fifty-eight thousand fifty dollars (\$58,050) for the violations referenced in paragraph II of this order. Within thirty (30) days of service of this order on respondent A.A. Truck Renting Corp., respondent shall pay the civil penalty referenced in paragraph III in the amount of fifty-eight thousand fifty dollars (\$58,050) by certified check, cashier's check or money order made payable to the New York State Department of Environmental Conservation. The civil penalty shall be submitted to:

Grace H. Nam, Esq.  
Assistant Regional Attorney  
NYSDEC Region 2  
1 Hunter's Point Plaza  
47-40 21<sup>st</sup> Street  
Long Island City, New York 11101-5407

- IV. Within fifteen (15) days of service of this order on respondent A.A. Truck Renting Corp., respondent shall submit to Department staff a complete registration application for the Food Center Drive facility together with the applicable registration fees.
- V. Within fifteen (15) days of service of this order on respondent A.A. Truck Renting Corp., respondent shall submit to Department staff a complete registration application for the Oak Point Avenue facility together with the applicable registration fees.
- VI. Within thirty (30) days of service of this order on respondent A.A. Truck Renting Corp., respondent shall:
  - A. conduct a tightness test on UST #002 tank system located at the Food Center Drive facility;
  - B. conduct a functionality test for the automatic line leak detector on the pressurized piping associated with USTs #001 and #002 located at the Oak Point Avenue facility;
  - C. identify the Class A, Class B and Class C operators for the Oak Point Avenue facility and proof verifying the successful completion of training and testing for the Class A, Class B and Class C operators;
  - D. provide the report for the annual line tightness test on the pressurized piping associated with USTs #001 and #002 located at the Oak Point Avenue facility; and
  - E. submit proof in a form and manner acceptable to Department staff that documents that the corrective measures referenced in subparagraphs A – D of this paragraph have been completed.
- VII. Respondent A.A. Truck Renting Corp. shall submit the registration applications for the Food Center Drive facility and the Oak Point Avenue facility, all applicable registration fees, and all other submissions to:

Grace H. Nam, Esq.  
Assistant Regional Attorney  
NYSDEC Region 2  
1 Hunter's Point Plaza  
47-40 21<sup>st</sup> Street  
Long Island City, New York 11101-5407

VIII. The provisions, terms and conditions of this Order shall bind respondent A.A. Truck Renting Corp. and its agents, successors and assigns, in any and all capacities.

For the New York State Department  
of Environmental Conservation

By: \_\_\_\_\_/s/\_\_\_\_\_  
Basil Seggos  
Commissioner

Dated: Albany, New York  
May 13, 2019

**STATE OF NEW YORK**  
**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Alleged Violations of Article 17 of the  
New York State Environmental Conservation Law (ECL) and  
Title 6 of the Official Compilation of Codes, Rules and  
Regulations of the State of New York (6 NYCRR),

- by -

**SUMMARY REPORT**

DEC Case Nos.  
R2-20130521-196  
R2-20160927-328  
R2-20180410-105

**A.A. TRUCK RENTING CORP.,**

Respondent.

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Appearances of Counsel:

- Thomas S. Berkman, Deputy Commissioner and General Counsel (Grace H. Nam, Assistant Regional Attorney, of counsel), for staff of the Department of Environmental Conservation
- No appearance for respondent

**PROCEEDINGS**

By notice of motion for order without hearing in lieu of complaint dated September 27, 2018, staff of the New York State Department of Environmental Conservation (Department) commenced this enforcement proceeding against respondent A.A. Truck Renting Corp. (respondent) for alleged violations of former 6 NYCRR parts 612 and 613 and current 6 NYCRR part 613 at respondent's petroleum bulk storage (PBS) facilities located at 355 Food Center Drive, Bronx, New York (Food Center Drive) (PBS No. 2-270768) and 500 Oak Point Avenue, Bronx, New York (Oak Point Avenue) (PBS No. 2-611778).

Inasmuch as respondent is an active domestic business corporation in the State of New York, service of the notice of motion and supporting papers on respondent was made by personally serving the New York State Department of State on November 2, 2018 (*see* affidavit of service of Ellen Shupe Bell, sworn to November 2, 2018). Consistent with CPLR 3215(g)(4), Department staff also provided additional service by sending the notice of motion and supporting papers to respondent by first class mail on December 18, 2018 (*see* affidavit of service of Regina Seetahal, sworn to December 18, 2018). Respondent failed to file a response to the motion, as directed in the notice of motion.



By letter dated December 10, 2018, Chief Administrative Law Judge James T. McClymonds advised Department staff and respondent that the matter had been assigned to me. By ruling dated April 5, 2019, I granted Department staff's motion in part (*see Matter of A.A Truck Renting Corp.*, Ruling of the ALJ, April 5, 2019 [Ruling] at 10-12.)

The Ruling granted staff's motion for order without hearing on the issue of liability against A.A Truck Renting Corp. on the following violations:

- A. i. Former 6 NYCRR 612.2(a)(2) for failing to renew the registration of the Food Center Drive facility (first cause of action);
  - ii. Current 6 NYCRR 613-1.9(c) for failing to renew the registration of the Oak Point Avenue facility (first cause of action);
- B. Current 6 NYCRR 613-1.9(a) for failing to maintain a current and accurate PBS registration for the Food Center Drive facility (second cause of action);
- C. Former 6 NYCRR 612.2(e) for failing to display a current and valid PBS registration at the Food Center Drive facility (third cause of action);
- D. Former 6 NYCRR 613.3(b)(1) for failing to properly color code the fill port associated with underground storage tank (UST) #002 at the Food Center Drive facility (fourth cause of action);
- E. i. Former 6 NYCRR 613.5(a) for failing to test UST #002 for tightness within five years from the date of the previous test at the Food Center Drive facility (fifth cause of action);
  - ii. Current 6 NYCRR 613-3.3(b)(1)(i) for failing to test UST #002 for tightness at yearly intervals at the Food Center Drive facility (fifth cause of action);
- F. i. Former 6 NYCRR 613.5(a)(4) for failing to submit the results of the periodic tightness test of UST #001 at the Food Center Drive facility (seventh cause of action);
  - ii. Current 6 NYCRR 613-2.3(e)(1) for failing to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #001 at the Oak Point Avenue facility (seventh cause of action);
  - iii. Current 6 NYCRR 613-2.3(e)(1) for failing to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #002 at the Oak Point Avenue facility (seventh cause of action);
  - iv. Current 6 NYCRR 613-2.3(e)(3) for failing to submit the results of the annual line tightness test on the pressurized piping associated with UST #001 at the Oak Point Avenue facility (seventh cause of action);
  - v. Current 6 NYCRR 613-2.3(e)(3) for failing to submit the results of the annual line tightness test on the pressurized piping associated with UST #002 at the Oak Point Avenue facility (seventh cause of action); and

G. Current 6 NYCRR 613-2.5(f) for failing to maintain adequate records for the Class A, Class B, and Class C Operators at the Oak Point Avenue facility (eighth cause of action).

I denied the motion for order without hearing on Department staff's sixth cause of action and reserved ruling on the civil penalty and relief requested in Department staff's motion for order without hearing until a hearing was held on the remaining cause of action. I advised the parties in the event Department staff elected not to pursue the remaining cause of action, a summary report would be issued with respect to the requested penalties and relief.

By letter dated April 11, 2019, Grace H. Nam, Assistant Regional Attorney, advised the undersigned and respondent that Department staff was not pursuing its sixth cause of action. Therefore, a hearing on the remaining cause of action is not required. As the Ruling sets forth the undersigned's findings of fact and conclusions of law, such will not be repeated herein. Liability has already been established on the first, second, third, fourth, fifth, seventh, and eighth causes of action. Accordingly, I turn to the penalties and relief requested by staff.

### Penalty

Department staff requests that respondent be assessed a civil penalty of eighty-eight thousand fifty dollars (\$88,050). Pursuant to ECL 71-1929(1), the Commissioner may impose a maximum daily penalty of thirty-seven thousand five hundred dollars (\$37,500) per day on any person who violates any of the provisions of, or who fails to perform any duty imposed by ECL article 17 title 10 or the regulations promulgated pursuant thereto. Staff requests the total penalty of \$88,050, but breaks down the penalty requested for each cause of action as follows:

First cause of action (two counts) - \$6,000 (\$3,000 per count)  
Second cause of action (one count) - \$1,500  
Third cause of action (one count) - \$300  
Fourth cause of action (one count) - \$750  
Fifth cause of action (two counts) - \$30,000 (\$15,000 per count)  
Sixth cause of action (two counts) - \$30,000 (\$15,000 per count)  
Seventh cause of action (five counts) - \$15,000 (\$3,000 per count)  
Eighth cause of action (one count) - \$4,500

In support of the requested penalty, staff stated that the penalty requested is consistent with the Department's Civil Penalty Policy (DEE-1, June 20, 1990) and Bulk Storage and Spill Response Enforcement Policy (DEE-4, March 15, 1991). Staff took into consideration the lack of cooperation demonstrated by respondent's failure to provide documentation that the violations noted in the 2013, 2016 and 2018 Notices of Violation (NOVs) were corrected.

In addition, staff notes that respondent has a substantial history of noncompliance with the PBS regulations as demonstrated by five consent orders entered into with respondent, one involving the Food Center Drive facility, three involving the Oak Point Avenue facility and one

involving another facility owned by respondent. Each consent order involves violations similar to those repeated in this matter. The respondent has been assessed a total of forty-five thousand four hundred and fifty dollars (\$45,450) through those five orders on consent, but still fails to comply with the law and regulations.

Department staff's papers cast the eighth cause of action as containing one count for failing to maintain adequate records for the Class A, Class B, and Class C operators at the Oak Point Facility in violation of 6 NYCRR 613-2.5(f). Department staff's requested penalty of \$4,500 for the eighth cause of action states it is based on \$1,500 per count. Staff, however, does not explain how staff arrived at what appears to be three counts. The noted violation is for failure to maintain records, which must include information regarding the three classes of operators. Failing to maintain the records is a single violation each time it is discovered that the records were not maintained as required. If staff wishes to count the violation of 6 NYCRR 613-2.5(f) as constituting more than one violation or count, staff must provide its reason for doing so. Without such an explanation, I conclude the eighth cause of action contains one count. Nonetheless, for the reasons set forth below, I conclude staff's requested penalty of \$4,500 on the eighth cause of action is supported and appropriate.

The penalties requested are a fraction of the maximum statutory penalty that could be assessed against respondent. The statutory maximum penalty for a single day of the thirteen violations proven by staff would be four hundred eighty-seven thousand dollars five hundred (\$487,500). I conclude that staff's penalty request is appropriate based on respondent's continued violations of the petroleum bulk storage law and regulations, and respondent's failure to cooperate with Department staff to address the violations. The potential harm from a spill or other failure resulting from lack of appropriate maintenance of respondent's PBS facilities further supports the penalty requested.

Although respondent has a history of noncompliance, has not addressed the violations noted in the NOV's in a timely fashion, and appears to treat penalties as a cost of doing business as exemplified by the five orders on consent involving similar violations, I am reducing staff's requested penalty by thirty thousand dollars (\$30,000), the amount staff assigned to staff's sixth cause of action. The total penalty of fifty-five thousand fifty dollars (\$55,050), requested by staff on staff's first, second, third, fourth, fifth, seventh and eighth causes of action, is a fraction of the maximum penalty and is supported on this record. I conclude that a total penalty of fifty-five thousand fifty dollars (\$55,050) is supported and appropriate.

#### Corrective Action

Department staff requests as part of the relief in this matter that respondent be directed "to bring the Food Center Drive and Oak Point Facilities into compliance with all relevant ECL and NYCRR provisions immediately." Staff, however, has not stated what corrective action is being requested or whether staff wants tests conducted and records maintained or submitted or both. In matters such as this, where there are two facilities and several inspections over several years, staff should list the specific corrective actions staff wants the Commissioner to direct rather than leaving it to the ALJ and Commissioner to search the record to determine the appropriate corrective action. Respondent is already required to comply with the ECL and

regulations. Accordingly, I will not recommend further language to that effect to the Commissioner.

Nonetheless, the Commissioner can direct respondent to correct the violations and submit documentation to Department staff demonstrating compliance. The corrective actions recommended herein are based on the last inspections performed at each facility and must be performed in compliance with the current PBS regulations, 6 NYCRR part 613, that became effective October 11, 2015.

### **RECOMMENDATIONS**

Based on the foregoing, I recommend that the Commissioner issue an order:

1. granting Department staff's motion for order without hearing, on staff's first, second, third, fourth, fifth, seventh, and eighth causes of action, pursuant to 6 NYCRR 622.12;
2. holding that respondent A.A. Truck Renting Corp. violated the following:
  - A. i. Former 6 NYCRR 612.2(a)(2) for failing to renew the registration of the Food Center Drive facility (first cause of action);
  - ii. Current 6 NYCRR 613-1.9(c) for failing to renew the registration of the Oak Point Avenue facility (first cause of action);
  - B. Current 6 NYCRR 613-1.9(a) for failing to maintain a current and accurate PBS registration for the Food Center Drive facility (second cause of action);
  - C. Former 6 NYCRR 612.2(e) for failing to display a current and valid PBS registration at the Food Center Drive facility (third cause of action);
  - D. Former 6 NYCRR 613.3(b)(1) for failing to properly color code the fill port associated with underground storage tank (UST) #002 at the Food Center Drive facility (fourth cause of action);
  - E. i. Former 6 NYCRR 613.5(a) for failing to test UST #002 for tightness within five years from the date of the previous test at the Food Center Drive facility (fifth cause of action);
  - ii. Current 6 NYCRR 613-3.3(b)(1)(i) for failing to test UST #002 for tightness at yearly intervals at the Food Center Drive facility (fifth cause of action);
  - F. i. Former 6 NYCRR 613.5(a)(4) for failing to submit the results of the periodic tightness test of UST #001 at the Food Center Drive facility (seventh cause of action);
  - ii. Current 6 NYCRR 613-2.3(e)(1) for failing to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #001 at the Oak Point Avenue facility (seventh cause of action);

- iii. Current 6 NYCRR 613-2.3(e)(1) for failing to maintain the results of the annual functionality test for the automatic line leak detector on the pressurized piping associated with UST #002 at the Oak Point Avenue facility (seventh cause of action);
  - iv. Current 6 NYCRR 613-2.3(e)(3) for failing to submit the results of the annual line tightness test on the pressurized piping associated with UST #001 at the Oak Point Avenue facility (seventh cause of action);
  - v. Current 6 NYCRR 613-2.3(e)(3) for failing to submit the results of the annual line tightness test on the pressurized piping associated with UST #002 at the Oak Point Avenue facility (seventh cause of action); and
- G. Current 6 NYCRR 613-2.5(f) for failing to maintain adequate records for the Class A, Class B, and Class C Operators at the Oak Point Avenue facility (eighth cause of action).
3. directing respondent A.A. Truck Renting Corp. to pay a civil penalty of fifty-five thousand fifty dollars (\$55,050) within fifteen (15) days of service of the Commissioner's order on respondent;
  4. directing respondent A.A. Truck Renting Corp. to submit a complete registration application together with the applicable registration fees for the Food Center Drive facility (PBS No. 2-270768) within fifteen (15) days of service of the Commissioner's order on respondent;
  5. directing respondent A.A. Truck Renting Corp. to submit a complete registration application together with the applicable registration fees for the Oak Point Avenue facility (PBS No. 2-611778) within fifteen (15) days of service of the Commissioner's order on respondent
  6. directing respondent A.A. Truck Renting Corp. to perform the following within thirty (30) days of service of the Commissioner's order on respondent:
    - A. conduct a tightness test on UST #002 tank system located at the Food Center Drive facility and submit the results;
    - B. conduct a functionality test for the automatic line leak detector on the pressurized piping associated with USTs #001 and #002 located at the Oak Point Avenue facility and submit the results;
    - C. submit identification of the Class A, Class B and Class C operators for the Oak Point Avenue facility and proof verifying the successful completion of training and testing for the Class A, Class B and Class C operators; and
    - D. submit the test report for the annual line tightness test on the pressurized piping associated with USTs #001 and #002 located at the Oak Point Avenue facility;
  7. directing respondent A.A. Truck Renting Corp. to submit photographs, documentation or reports, acceptable to the Department, demonstrating that the corrective actions have

been completed within thirty (30) days of service of the Commissioner's order on respondent;

8. directing respondent A.A. Truck Renting Corp. to submit the penalty payment, registration and fees and all other submissions to the following:

Grace H. Nam, Esq.  
Assistant Regional Attorney  
NYSDEC Region 2  
47-40 21<sup>st</sup> Street  
Long Island City, New York 11101-5407; and

9. directing such other and further relief as may be deemed just, proper and equitable under the circumstances.

\_\_\_\_\_/s/\_\_\_\_\_  
Michael S. Caruso  
Administrative Law Judge

Dated: April 15, 2019  
Albany, New York