



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 *Del. C.* §§ 6005(b)(2) and (b)(3)

Order No. 2026-WH-0018

Issued To:

Via Certified Mail, Return Receipt: Via Personal Service:

Wynonia Porter
The Country Store, Inc.
PO Box 328
Kenton, DE 19955

Registered Agent:
Advantage Delaware LLC
3524 Silverside Ste. 35B
Wilmington, DE 19810

Dear Nona Porter:

This is to notify WYNONIA PORTER/THE COUNTRY STORE, INC ("Respondent"), located at 11 South Main Street, Kenton DE 19955 that the Secretary¹ of the Delaware Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of 7 *Del. C.* Chapters 60 and 74, 7 DE Admin. Code 1351, Delaware's *Regulations Governing Underground Storage Tank Systems* ("DRGUSTS") and 7 DE Admin. Code 1124, Delaware's *Regulations Governing the Control of Volatile Organic*

¹ The head of the Delaware Department of Natural Resources and Environmental Control as appointed by the Governor.

Compound Emissions ("DRGCVOCE"). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order ("Secretary's Order" or "Order"), pursuant to 7 Del. C. § 6005.

BACKGROUND

Respondent owns and operates *The Country Store*, a convenience store and gas station located in Kenton, Delaware (the "Facility"). This operation includes an Underground Storage Tank ("UST") System.² As a result Respondent is subject to the DRGUSTS and DRGCVOCE.

On January 11, 2020, amendments to the DRGUSTS became effective which required that, by December 31, 2025, all UST Systems include liquid tight Containment Sumps³ (including tank top, under dispenser containment, and transition sumps). Testing of the Containment Sumps is required every thirty-six (36) months. The purpose of these regulations is to prevent the release of gasoline and its chemical constituents into the environment.

² "Underground storage tank system" means an underground storage tank and its associated ancillary equipment and containment system, if any.

³ "Containment Sump" means a Liquid Tight container that protects the environment by containing leaks and spills of Regulated Substances from Piping, Dispensers, pumps and related components in the containment area. Containment Sumps may be single walled or Secondarily Contained and located at the top of the Tank (Tank top or submersible turbine pump sump), underneath the Dispenser (Under- Dispenser Containment Sump), or at other points in the Piping Run (transition or intermediate sump).

As of January 1, 2026, facilities that do not have the required Containment Sumps installed or whose Containment Sumps failed hydrostatic testing are out of compliance with the DRGUSTS.

On July 11, 2020, amendments to the DRGCVOCE became effective which required that all Stage I Vapor Recovery systems obtain a Stage I Enhanced Vapor Recovery ("EVR") Construction permit and install EVR equipment before December 31, 2025. Vapor Recovery refers to the capture of gasoline vapors during delivery of gasoline and operation of a UST System, and a vapor recovery system ensures that UST Systems are not omitting vapors into the environment

Enhanced vapor recovery refers to stricter performance standards and specifications for gasoline dispensing facilities equipped with underground storage tanks and aboveground storage tanks. EVR equipment, performance standards, and specifications are designed to increase in-use performance of vapor recovery systems and to return no less than ninety eight percent (98%) by weight of the vapors to a vapor-tight delivery vessel.

As of January 1, 2026, facilities that have not obtained the necessary Stage I EVR permit and installed the necessary equipment are out of compliance with the DRGCVOCE.

As of January 1, 2026, Respondent has not installed Containment Sumps at the Facility, nor obtained an EVR construction permit and installed the necessary EVR equipment at the Facility.

Beginning in January 2020, the Department sent a myriad of notices to owners and operators of USTs, including Respondent, reminding them of the above amendments to the DRGUSTS/DRGCVOCE and associated deadlines. The notices took the form of compliance letters, department newsletters, and emails. For the eighteen (18) months prior to the January 2026 deadline the notices were sent every six (6) months.

On February 12, 2026, the Department issued Notice of Violation 26-UT-04 (the "NOV") by email to Respondent, which was then hand delivered on February 17, 2026, to The Country Store, INC. The NOV notified Respondent of the violations of the DRGUSTS and DRGCVOCE which are the basis of this Order and gave Respondent thirty (30) days to submit a UST Activity Form⁴ to the Department, and ninety (90) days thereafter to complete the work necessary to come into compliance with the regulations. As of the date of this Order Respondent has not done so.

FINDINGS OF FACT AND VIOLATION INCLUDING REGULATORY REQUIREMENTS

As noted in the NOV, Respondent is in violation of the following provisions of 7 Del. C. Chapters 60 and 74, the DRGUSTS, and the DRGCVOCE.

⁴ UST Activity form is located at <https://dnrec.delaware.gov/waste-hazardous/tanks/documents/#ust-forms>. This form is for owners, operators, and contractors to submit work for approval to the department. It includes facility information that is needed for work approval.

1. DRGUSTS Part B, Section 2.27 states:

"Section 2.27 Containment Sump Requirements for Non-Liquid Tight Access Structures for UST Systems Storing Regulated Substance Installed or Existing Prior to January 11, 2008.

2.27.1 All Dispenser, Tank top, transition and any other non-Liquid Tight access structures shall be prohibited after December 31, 2025. Containment Sumps shall be installed in accordance with Part A, Section 15.0 prior to and no later than December 31, 2025."

Containment Sumps have not been installed on Respondent's UST system. Respondent is in daily violation of this regulation and has been since January 1, 2026.

2. DRGCVOCE Section 36.1.4 states:

"36.1.4 Compliance Schedule. Any gasoline dispensing Facility subject to the requirements of Section 36.0 shall be in compliance as follows:

36.1.4.2 Installation of Stage I enhanced vapor recovery (EVR) system

36.1.4.2.1 Any existing Facility shall install and operate a Stage I EVR system prior to December 31, 2025."

A Stage I EVR system has not been installed at Respondent's Facility. Respondent is in daily violation of this regulation and has been since January 1, 2026.

SECRETARY'S ORDER

As Respondent has failed to comply with the cited requirements of 7 Del. C. Chapters 60 and 74, the DRGUSTS, and the DRGCVOCE, the Department requires that Respondents demonstrate compliance with the applicable law to resolve the outstanding violations. Therefore, in consideration of the foregoing findings, notice is hereby given, pursuant to 7 Del. C. § 6005(b)(2), that Respondents shall achieve compliance by undertaking the following actions.

In a manner in full compliance with all applicable laws and regulatory requirements, Respondents shall within thirty (30) days of receipt of this Order:

1. Submit documentation demonstrating that Containment Sumps associated with the Facility's UST system have been installed in accordance with DRGUSTS Part A, Section 15.0.
2. Submit documentation demonstrating that the Stage I EVR system has been installed and operating in accordance with DRGCVOCE Section 36.0.

Submit all documentation and correspondence to:

Patrick McGovern
Department of Natural Resources and Environmental Control
Division of Waste and Hazardous Substances
Compliance and Permitting Section
391 Lukens Drive
New Castle, Delaware 19720
Patrick.McGovern@Delaware.gov

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondent has been in ongoing violation of the above-cited regulatory provisions since January 1, 2026.

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$40,000.00 for each day of each violation detailed in this Order. This Order is written notice to Respondent that, based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Assessment and Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

1. The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violations are significant. This Order identifies and describes two (2) regulatory violations which have been ongoing since January 1, 2026: Failing to ensure compliance with liquid-tight Containment Sumps and failing to

install and operate a Stage I EVR system. Each are significant deviations from the regulatory requirements cited herein.

2. Respondent's Ability to Pay:

The record contains no information that Respondent lacks the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

Respondent's prior history of violations was not a factor in assessing the administrative penalty.

4. Degree of Culpability:

The degree of culpability is significant. Had Respondent employed reasonable oversight measures as the DRGUSTS and DRGCVOCE require, the violations would not have occurred.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, the record contains no information that Respondent incurred any meaningful economic benefit from the violations, and thus this was not a factor in the administrative penalty assessment. However, Respondent has thus far avoided costs associated with the purchase and installation of compliant equipment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been calculated to deter

Respondent, and those similarly situated, from engaging in future violations.

Pursuant to 7 *Del. C. § 6005(b)(3)*, this is written notice to Respondent that on the basis of the above findings and factors, a multi-day administrative penalty of \$12,000.00 is assessed for the violations identified in this Order.

Respondent shall submit one check to the Department in the amount of \$12,000.00 to pay the administrative penalty within thirty (30) days from the receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Enforcement Coordinator, DNREC-Office of the Secretary, 89 Kings Highway SW, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to 7 *Del. C. § 6008*, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **twenty (20) days** of the receipt of the Secretary's Order. Respondent may also, pursuant to 7 *Del. C. § 6005(b)(3)*, request a public hearing on the Secretary's Order within **thirty (30) days** of receipt of the Secretary's Order. A public hearing pursuant to 7 *Del. C. § 6005(b)(3)* would be conducted pursuant to 7 *Del. C. § 6006*, and the Secretary's order following the hearing would be subject to appeal, pursuant to 7 *Del. C. § 6008*, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within thirty (30) days of Respondent's receipt of this Secretary's Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to 7 *Del. C.* §§ 6005(b)(3) and (c).

To request a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to stop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 *Del. C.* § 6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort

notwithstanding merit system laws, regulations or rules to the contrary." (7 Del. C. § 6005(c)(1)).

The Department is not seeking costs from Respondent in this Order. Please be advised, however, this is not a waiver of the Department's right to cost recover for past costs. Further, additional costs, which you may be liable, may accrue through the exhaustion of Respondent's appeal rights. The Department reserves the right to issue a detailed billing statement of all costs incurred and seek recovery of that amount.

PAYMENT

If Respondent does not wish to exercise its legal rights to a hearing or appeal, Respondent may pay the administrative penalty of \$12,000.00 prior to the end of the appeal period, in the manner described in the attached **"Waiver of Statutory Right to A Hearing."** By doing so, Respondent waives the right to a hearing and the opportunity to appeal or contest this Secretary's Order.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by each Respondent separately. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **twenty (20) days** of the receipt of the Secretary's Order. Respondents may also, pursuant to 7 Del. C. § 6005(b)(3), request a public hearing on the Secretary's Order within **thirty (30) days** of receipt of the Secretary's Order. A public hearing pursuant to 7 Del. C. §

6005(b)(3) would be conducted pursuant to 7 *Del. C.* § 6006, and the Secretary's order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* § 6008, by any person substantially affected.

To request a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Ph: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Ph: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

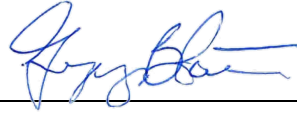
The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondents, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1), and an action under 7 *Del. C.* § 9109 for any of the reasons stated thereunder. Nothing in this document shall be deemed to stop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

If you have any questions, please contact Travis Groski, Esq., Deputy Attorney General, at (302) 484-8964.

Wynonia Porter/ The Country Store, Inc.
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July 10, 2026

Date



Gregory Patterson
Secretary
Delaware Department of Natural Resources
and Environmental Control

cc: Travis Groski, Esq., Deputy Attorney General
Timothy Ratsep, Division Director

WAIVER OF STATUTORY RIGHT TO A HEARING

WYNONIA PORTER/THE COUNTRY STORE, INC. hereby waives its right to a public hearing and its opportunity to appeal or contest this Secretary's Order, and agrees to the following:

WYNONIA PORTER/THE COUNTRY STORE, INC. will pay the administrative penalty in the amount of \$12,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Enforcement Coordinator, DNREC-Office of the Secretary, 89 Kings Highway SW, Dover, Delaware 19901.

WYNONIA PORTER/THE COUNTRY STORE, INC.

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)