



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Stefanie K. Taillon
Secretary of Natural and Historical Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

April 25, 2025

Owner Address:	Other Address:
Mr. Kenny Patel, Owner Kapilesvar Inc. 1360 W Highway 25 70 Newport, TN 37821 k4patel@gmail.com	Ms. Laura Wilson, Trustee Jack & Susan Weaver Irrevocable Trust 27693 Honey Locust Road Abingdon, VA 24211
Operator Address:	Other Address:
Ajay Prajapati, Store Manager/Operator Contact 1301 Lee Highway Bristol, VA 24201 ajayozal3@yahoo.com	Mr. Peter Curcio, Registered Agent Kapilesvar Inc. 600 Cumberland Street 2nd Floor Bristol, VA 24201

NOTICE OF INFORMAL FACT FINDING PROCEEDING

RE:	Named Party(ies)	Ashaben Patel; Kapilesvar Inc.
	Facility	Country Boys Food Mart 1301 Lee Hwy, Bristol, VA 24201
	Facility ID No.	1024236

Dear Sir/Madam:

You are hereby notified that the Department of Environmental Quality will conduct an Informal Fact Finding Proceeding ("Proceeding") regarding the Facility identified above. The Proceeding will be held via conference call at the date and time listed below. At the scheduled time, dial the Call-In Number and enter the Access Code listed below.

Notice of Informal Fact Finding Proceeding

Proceeding Date	May 19, 2025	Proceeding Time	10:00 AM
Call-In No.	(434) 230-0065	Access Code	823 048 600#

If you have any difficulty accessing the conference call, please call:

Agency Advocate	Kelsey Almeida
Phone No.	(804) 814-7889

PURPOSE

The purpose of the Proceeding is to determine whether the underground storage tank(s) (UST(s)) located at this Facility and listed in this Notice are ineligible for delivery, deposit, or acceptance of a regulated substance based on violation(s) of the Underground Storage Tanks: Technical Standards and Corrective Action Requirements Regulation (the Regulation), 9VAC25-580-10 *et seq.*, as described below.

INFORMATION TO BE USED BY DEQ

To ascertain the facts in this matter, DEQ staff may rely upon DEQ's inspection report(s) for the Facility, any Notice(s) of Violation, the Form 7530-2 Notification for USTs for the Facility, other public documents in DEQ files, and the information presented by witnesses. DEQ staff will also rely on applicable statutes, regulations, and DEQ guidance. Full texts of statutes, regulations, and DEQ guidance can be obtained at <http://www.deq.virginia.gov/LawsRegulations.aspx> or <http://lis.virginia.gov/> (statutes and regulations) and <http://townhall.virginia.gov/L/GDocs.cfm> (DEQ guidance). Copies will be provided upon request.

ALLEGED VIOLATIONS AND LEGAL REQUIREMENTS

The following alleged violations are based on inspection(s) conducted on the date(s) listed below. These alleged violations remain unresolved and will be the subject of the Proceeding.

Inspection Date(s)	October 24, 2024; December 20, 2023
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Alleged Violation	Observations and Legal Requirements	UST No(s).
☐	Failed to keep required records at the Facility, readily available at an alternative site, or make them immediately available upon request. 9VAC25-580-120: Reporting and Recordkeeping	

Alleged Violation	Observations and Legal Requirements	UST No(s).
☒	Failed to properly perform, repair, replace, test, or provide a method, or combination of methods, of release detection for tanks, and/or operation of electronic and mechanical components for USTs at the Facility. 9VAC25-580-110: Repairs Allowed 9VAC25-580-130: General Requirements for all UST Systems 9VAC25-580-140: Requirements for Petroleum UST Systems 9VAC25-580-160: Methods of Release Detection for Tanks	1, 2, 3
☐	Failed to properly perform, repair, replace, test, or provide a method, or combination of methods, of release detection for piping, and/or operation of electronic and mechanical components for USTs at the Facility. 9VAC25-580-110: Repairs Allowed 9VAC25-580-130: General Requirements for all UST Systems 9VAC25-580-140: Requirements for Petroleum UST Systems 9VAC25-580-170: Methods of Release Detection for Piping	
☐	Failed to provide, operate, repair, test and/or maintain corrosion protection of the UST system. 9VAC25-580-50: Performance Standards for New UST Systems 9VAC25-580-60: Upgrading of Existing UST Systems 9VAC25-580-90: Operation and Maintenance of Corrosion Protection 9VAC25-580-110: Repairs Allowed	
☐	Failed to provide overfill and/or spill prevention / equipment that will prevent a release into the environment. 9VAC25-580-50: Performance Standards for New UST Systems 9VAC25-580-60: Upgrading of existing UST Systems	
☐	Failed to conduct or properly conduct walkthrough inspections. 9VAC25-580-85: Periodic operation and maintenance walkthrough inspections	
☐	Failed to submit a UST notification form or an amended notification form regarding a change in ownership, tank status, tank/piping systems, or substance stored within 30 days after such change or upgrade occurs or is brought into use. 9VAC25-580-70: Notification Requirements	
☐	Failed to complete the required training and/or designate Class A, Class B, and/or Class C operators and/or failed to provide written instructions or emergency procedures. 9VAC25-580-125: Operator Training	
☐	Failed to properly conduct testing and/or test spill prevention equipment, overfill equipment, and/or containment sumps. 9VAC25-580-82: Periodic Testing	

Alleged Violation	Observations and Legal Requirements	UST No(s).
☐	Failed to report a suspected release or unusual operating condition within 24 hours. 9VAC25-580-190: Reporting of Suspected Releases 9VAC25-580-220: Reporting and Cleanup of Spills and Overfills	
☐	Failed to immediately investigate and confirm all suspected releases of regulated substances requiring system test/site check and reporting within seven days. 9VAC25-580-210: Release Investigation and Confirmation Steps	
☐	Failed to contain and immediately clean up a spill or overfill that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; and/or take immediate action to prevent further release or migration of a regulated substance; and/or failed to identify and mitigate fire, explosion and vapor hazards; and/or failed to remedy hazards posed by contaminated soils; and/or measure for a release where contamination is most likely; and/or failed to submit an initial abatement report; and/or failed to investigate and remove free product. 9VAC25-580-220: Reporting and Cleanup of Spills and Overfills 9VAC25-580-240: Initial Response 9VAC25-580-250: Initial Abatement Measure and Site Check 9VAC25-580-270: Free Product Removal	
☐	Failed to assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures. 9VAC25-580-260: Site Characterization	
☐	Failed to notify 30 days before switching to a specified regulated substance and/or failed to demonstrate proper compatibility. 9VAC25-580-100: Compatibility	
☐	Failed to investigate off-site impacts to determine if the UST system is the source. 9VAC25-580-200: Investigation Due to Off-Site Impacts	
☐	Failed to submit a corrective action plan, with all necessary information, according to the required schedule, or perform corrective action to address contaminated soils and groundwater. 9VAC25-580-270: Free Product Removal 9VAC25-580-280: Corrective Action Plan	
☐	Failed to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. 9VAC25-590-40: Amount and Scope of Financial Responsibility Requirement 9VAC25-590-50: Allowable Mechanisms	

Alleged Violation	Observations and Legal Requirements	UST No(s).
☐	Failed to maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility. 9VAC25-590-160: Recordkeeping	
☐	Failed to return a tank to compliance that has been classified as ineligible for delivery for more than 90 days, and the tank has not been closed in accordance with 9VAC25-580-310 or 9VAC25-580-320. 9VAC25-580-370.F: Requirements for Delivery Prohibition	

PROCEDURES

You may participate in the conference call yourself or by counsel or other qualified representative pursuant to Va. Code § 2.2-4019. At this proceeding, the Responsible Party(ies) will be able to present factual data, argument, or proof in connection with this case. A presiding officer will hear the evidence in this case and prepare a case decision to resolve any issues presented with respect to delivery prohibition.

Based upon DEQ's file and the record of this Proceeding, DEQ will be requesting that the Presiding Officer find that the referenced UST(s) at the Facility identified above are in violation of the Regulation and ineligible for delivery, deposit or acceptance of a regulated substance based on 9VAC25-580-370 of the Regulation.¹

Be advised that if you fail to attend or appear without good cause to an informal fact-finding proceeding conducted pursuant to Va. Code § 2.2-4019, the presiding officer may issue a default order regarding the subject of this notice. If a default order is issued, the presiding officer may conduct all further proceedings necessary to complete the adjudication and shall determine all issues in the adjudication, including those affecting you. Further, an order may be issued against you based on any admissions or other evidence without notice to you.

You will be notified of the results of the proceeding in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with Va. Code § 2.2-4026.

RESOLUTION

Please contact the DEQ staff listed below if you wish to resolve the alleged violations prior to the Informal Fact Finding Proceeding.

¹ You may request to be heard on the Emergency, Rural or Remote Exception. 9VAC25-580-370(I) provides that if the Presiding Officer, acting on behalf of DEQ, determines that a delivery prohibition violation exists he or she can consider whether the threat posed by the violation is outweighed by the need for fuel from the UST(s) to meet an emergency situation or to meet the needs of a rural and remote area. If it is determined that such a condition outweighs the immediate risk of the violation, the Presiding Officer may defer imposition of delivery prohibition for up to 180 days. In every such case the director shall consider (i) issuing a special order under the authority of subdivision 10 of § 10.1-1186 of the Code of Virginia prescribing a prompt schedule for abating the violation and (ii) imposing a civil penalty.

Notice of Informal Fact Finding Proceeding

DEQ Staff	Kelsey Almeida
Phone No.	(804) 814-7889
Email	kelsey.m.almeida@deq.virginia.gov

If you complete the necessary work to resolve the potential violations prior to the date of the Proceeding, contact the above DEQ staff immediately so that compliance can be verified. You must provide a written report and appropriate documentation demonstrating that compliance has been achieved 3 business days prior to the Proceeding. If compliance is verified, the Proceeding will be cancelled and the UST(s) will be eligible for receipt of a regulated substance. If compliance is not verified, the Proceeding will go forward as scheduled.

You may waive your right to an Informal Fact Finding Proceeding by submitting a request for waiver prior to the date of the Proceeding. The request shall be in writing and signed by the owner of the UST and include a statement that no material facts are in dispute and that the owner waives his right to an Informal Fact Finding Proceeding and to any other administrative proceeding regarding the potential violations described herein.

FUTURE ACTIONS

If you waive your right to an Informal Fact Finding Proceeding or if these tanks are determined to be in violation of 9VAC25-580-10 *et seq.* and ineligible for delivery, a delivery prohibition notice ("red tag") will be placed on the fill port of the ineligible UST(s) and delivery, deposit or acceptance of a regulated substance into the UST(s) will be prohibited until such time as the UST(s) are returned to compliance. Please be advised that removal of the red tag is prohibited by 9VAC25-580-370 unless authorized, in writing, by DEQ. In addition, for each alleged violation, DEQ is authorized to pursue enforcement actions, seek civil penalties and seek compliance with its rules and regulations in any manner allowed by law.

Please contact the following DEQ staff within 5 business days of the date of this letter to confirm whether you and/or a representative will attend the Proceeding or with any questions related to this Proceeding. Please contact the Agency Advocate listed below at least ten days before the Proceeding Date to request accommodations under the Americans with Disabilities Act, translation services in a language other than English, or other reasonable accommodations to facilitate your meaningful participation in the proceeding.

Agency Advocate	Kelsey Almeida
Phone No.	(804) 814-7889
Email	kelsey.m.almeida@deq.virginia.gov

Notice of Informal Fact Finding Proceeding

Sincerely,

Hooper Renee lio67069

Digitally signed by: Hooper Renee lio67069
DN: CN = Hooper Renee lio67069 OU = COV-Users, End-
Users, DEQ
Date: 2025.04.25 12:21:19 -04'00'

Renee T. Hooper, Tank Regulatory Programs Manager

Virginia Department of Environmental Quality
(804) 659-1352
renee.hooper@deq.virginia.gov
Office of Spill Response & Remediation
1111 E. Main St., Suite 1400, Richmond, VA 23219

Virginia Department of Environmental Quality

In re: Ashaben Patel; Kapilesvar Inc.

DEQ Exhibit List

1. Property Card (Retrieved April 2025)
2. Property Sale Contract & UST 7530 - Kapilesvar Inc (2017)
3. Kapilesvar Inc - State Corporate Commission
4. Most Recent UST Registration Form (March 2025)
5. Formal UST Inspection Report (12-20-2023)
6. Request for Compliance Action (12-22-2023)
7. Tank Compliance Agreement - Signed (5-1-2024)
8. Formal UST Inspection Report (10-24-2024)
9. Request for Compliance Action (10-25-2024)
10. Warning Letter (1-13-2025)
11. DEQ Letter - Potential Delivery Prohibition (4-1-2025)
12. Email Correspondence 2024-2025
13. DEQ Follow Up Summary (April 2025)
14. Notice of Delivery Prohibition Proceeding (4-25-2025)