



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

Bruno L. Pigott  
Commissioner

January 5, 2022

Kroger Limited Partnership I  
c/o Corporation Service Company  
135 N Pennsylvania St., Suite 1610  
Indianapolis, IN 46204

Kroger Limited Partnership I  
Attn: Donnesa Bilyeu and Shenevelyn Ross  
Via email: [donnesa.bilyeu@kroger.com](mailto:donnesa.bilyeu@kroger.com)  
[shenevelyn.ross@kroger.com](mailto:shenevelyn.ross@kroger.com)

Re: Violation Letter  
Kroger J 862  
5865 N German Church Rd  
Indianapolis, Marion County  
UST Facility ID # **25490**

Dear Ms. Bilyeu and Ms. Ross:

An inspector from the Indiana Department of Environmental Management (IDEM), Underground Storage Tank (UST) Section, conducted an inspection of the site referenced above on December 7, 2021.

The inspection was conducted pursuant to Indiana Code (IC) 13-14-2-2 to determine compliance with the provisions of IC 13-23 and 329 IAC 9. In accordance with IC 13-14-5, a summary of the inspection is provided below:

Type of Inspection: Initial

Results of Inspection: Violations were discovered and require a submittal.

Within thirty (30) days of receipt of this letter, documentation demonstrating compliance with each of the requirements listed in the attached Inspection Report and Description of Violations (DOV) must be submitted to IDEM. Failure to submit this documentation may lead to this facility being referred for enforcement.

An enforcement action may include civil penalties of up to \$10,000 per UST. Enforcement actions may also affect the owner's and/or operator's eligibility for reimbursement from the Excess Liability Trust Fund (ELTF). Additionally, IDEM may deem the UST's at this facility ineligible for delivery, deposit or acceptance of regulated substances pursuant to IC 13-23-1-4. Finally, federal and criminal penalties may apply for failure to provide required notification; or submitting false information pursuant to IC 13-23-14-2 and liable under IC 13-30-10.

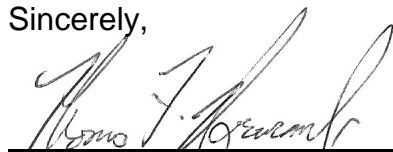
Thank you for your attention to this matter. Please submit the required documents to the UST Section via email at [USTCompliance@idem.in.gov](mailto:USTCompliance@idem.in.gov). Include in the subject line of the response the UST Facility ID # **25490**.

Inspector: Brandon Davis  
Phone: (317) 464-7666

Direct any questions regarding the inspection to:

Compliance Manager: Loic Maniet  
Phone: (317) 232-3592

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas F. Newcomb", is written over a horizontal line.

Thomas F. Newcomb, Chief  
UST Compliance Section  
Office of Land Quality

cc: Loic Maniet  
Brandon Davis  
UST Facility ID File # 25490

### DESCRIPTION OF VIOLATIONS

This inspection or records review revealed that the owner and/or operator of this facility is in violation of Indiana UST Rule 329 IAC 9. 329 Indiana Administrative Code ("IAC") 9 incorporates certain federal underground storage tank requirements found in 40 Code of Federal Regulations ("CFR") Part 280, including those identified below. The Description of Violations (DOV) and corrective measures are as follows:

FACILITY NAME: <b>Kroger J 862</b>	UST FACILITY ID: <b>25490</b>
ADDRESS: <b>5865 N. German Church Road Indianapolis, IN 46235 - Marion County</b>	INSPECTION DATE: <b>12/7/2021</b>

### VIOLATIONS NOTED IN THIS INSPECTION

**§ 280.20(c)(1)(ii)** – Failure to have overfill prevention equipment installed or installed properly

Citation:

Pursuant to 40 CFR 280.20(c)(1)(ii), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

(ii) Overfill prevention equipment that will:

(A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or

(B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or

(C) Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

Violation Details:

*The owner and/or operator of the UST system(s) at this site are in violation of this rule because, per the test completed on November 22, 2021, the overfill alarm was set at 95% which would not meet the requirement for an overfill alarm.*

Corrective Action:

The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to install or replace absent or substandard overfill prevention equipment that will operate as required. The UST owner and/or operator must submit proof that the overfill prevention equipment has been installed properly to the 90% or 95% fill level as required by the type of equipment within forty five (45) days of receipt of this notice. In the case where an owner has changed the overfill prevention equipment from a flow restrictor (ball float) to an auto-shutoff device, the owner must document the entire flow restrictor has been removed or that the automatic shut off device is installed at 90% or lower.

<b>§ 280.20(c)(1)(i) – Failure to have spill prevention equipment that will prevent release</b>
Citation:
Pursuant to 40 CFR 280.20(c)(1)(i), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment: (i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin).
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because at the time of inspection, the RUL tank's spill bucket was more than half full of fuel and the Premium tank's spill bucket had a crack within the side wall. In their current state, those spill buckets would not function as designed in the event of a spill or overfill.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall, within thirty (30) days of receipt of this notice, contract with a certified contractor to install or replace absent or substandard spill prevention equipment that will prevent the release of product to the environment. The UST owner and/or operator must submit proof that the spill prevention equipment has been installed within forty five (45) days of receipt of this notice.

<b>329 IAC 9-2-2(f) – Failure to ensure work done by certified contractor</b>
Citation:
Pursuant to 329 IAC 9-2-2(f), All owners and operators of UST systems shall ensure that the person who performs tank system installations, testing, upgrades, closures, removals, and change-in-service is certified by the department of homeland security, division of fire and building safety. The certified person who performs the work shall certify on the notification form that the work performed complies with methods specified in this article and 40 CFR 280, Subpart C.
Violation Details:
<i>The owner and/or operator of the UST system(s) at this site are in violation of this rule because the technician, Chris Howard, who completed the overfill test (dated November 22, 2021) is not listed on the IDHS website as being certified to work in Indiana.</i>
Corrective Action:
The owner and/or operator of the UST systems at this site shall fill out and submit to IDEM a correct and complete copy of the appropriate state form with required attachments, within fifteen (15) days of receipt of this notice.



# UNDERGROUND STORAGE TANK INSPECTION REPORT

INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

UST FAC ID: **25490**

Inspector's Name:	Brandon Davis
Date:	December 7, 2021
Time In:	11:09
Time Out:	12:34
Inspection Type:	Initial

FACILITY NAME / LOCATION								
FACILITY NAME		FACILITY ADDRESS (number and street)						
Kroger J 862		5865 N German Church Rd						
ADDRESS (line 2)	CITY	STATE	ZIP CODE	COUNTY				
	Indianapolis	IN	46235	Marion				
UST OWNER								
UST Owner Name (Business Name as registered with the Secretary of State)				BUSINESS ID (From the Secretary of State)				
Kroger Limited Partnership I				LP97110042				
PREFIX	FIRST NAME	MI	LAST NAME		SUFFIX			
Ms	Donnesa		Bilyeu					
TELEPHONE NUMBER		EMAIL ADDRESS						
(317) 579-8152		donnesa.bilyeu@kroger.com						
UST OPERATOR								
UST Operator Name (Business Name as registered with the Secretary of State)				BUSINESS ID (From the Secretary of State)				
Kroger Limited Partnership I				LP97110042				
PREFIX	FIRST NAME	MI	LAST NAME		SUFFIX			
Ms	Donnesa		Bilyeu					
TELEPHONE NUMBER		EMAIL ADDRESS						
(317) 579-8152		donnesa.bilyeu@kroger.com						
PROPERTY OWNER								
UST Property Owner Name (Business Name as registered with the Secretary of State)				BUSINESS ID (From the Secretary of State)				
Kroger Limited Partnership I				LP97110042				
PREFIX	FIRST NAME	MI	LAST NAME		SUFFIX			
Ms	Donnesa		Bilyeu					
TELEPHONE NUMBER		EMAIL ADDRESS						
(317) 579-8152		donnesa.bilyeu@kroger.com						
COMPLIANCE ELEMENTS								
All USTs properly registered and up-to-date notification form on file			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	UNK	
O/O is in compliance with reporting & record keeping requirements			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	UNK	
O/O is in compliance with release reporting or investigation			<input type="checkbox"/>	YES	NO	<input checked="" type="checkbox"/>	N/A	UNK
O/O is in compliance with all UST closure requirements			<input type="checkbox"/>	YES	NO	<input checked="" type="checkbox"/>	N/A	UNK
O/O has met all financial responsibility requirements			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart A installation requirements (partially excluded) met			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart B installation and upgrade requirements met			<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
RUL spill bucket more than 1/2 full of fuel; Premium spill bucket has crack in side wall;								
40 CFR 280, Subpart C spill/overfill control requirements met			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart C compatibility requirements met			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	N/A	UNK
40 CFR 280, Subpart C O&M and testing requirements met			<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>	UNK
Test completed indicate alarm set at 95%, technician not licensed in Indiana								
40 CFR 280, Subpart D release detection requirements met			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	UNK	
40 CFR 280, Subpart J operator training requirements met			<input checked="" type="checkbox"/>	YES	NO	<input type="checkbox"/>	UNK	

The information contained on this page is based upon a review of files related to this site and/or observations from an underground storage tank inspector. This page may contain information not specifically related to possible violations found during the review or inspection and is meant to give the owners and/or operator specific information to assist them.

**Site Maintains:**

- Two (2) Actual FG DW USTs installed in October 2015 (one 18K split 10/8)
- One (1) 20K REG GSL
- One (1) 10K PREM GSL (T2 C1)
- One (1) 8K DSL (T2 C2) - BioDSL
- Piping is OPW Pisces Flex DW and pressurized

RD UST = ATG, INT

RD Piping = LLD, LTT, INT (not noted in last NF), ATG

Overfill/Spill = Spill Buckets + Overfill Alarm

ATG Certification = Yes (6/24/2021)

Overfill Protection Test = Yes (11/22/2021)

Spill bucket Test = Yes (2/17/2020)

Containment Sumps Test Required = Yes (2/6/2020, 3/6/2020)

11/9/2021 - Per email from Kroger, site has an active overfill alarm for the USTs (visible and audible)

**Site History:**

Site is an active service station. There is no prior UST history at this site.

**Contact Information**

Donnesa Bilyeu donnesa.bilyeu@kroger.com

Shenevelyn Ross shenevelyn.ross@kroger.com

**Documentation provided at the time of the file review:**

- (NF 3/3/2020, no formal approval - RD equipment, RD method)
- Certificate of Financial Responsibility (insurance 1/2021 to 1/2022)
- Operator Certificates A, B, C (list)
- Release Detection Records INT (REG, PREM/DSL) 10/2020 to 11/2021
- Release Detection Records STP (REG, PREM, DSL) 10/2020 to 11/2021
- Release Detection Records UDC (disp 1 to 10) 10/2020 to 11/2021
- Release Detection Records ELLD (REG, PREM, DSL) 10/2020 to 11/2021
- Leak Detector Test (REG, PREM, DSL) 6/24/2021
- ATG/Probes/Sensor 6/24/2021
- Spill bucket test 2/17/2020
- UDC, Sump testing 2/6/2020
- Sump Testing (REG, PREM, DSL) 3/6/2020
- Monthly Walkthrough 1/2021 to 11/2021

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The following are AREAS OF CONCERN found during the inspection that will need to be addressed by the owner and/or operator:

- There was a small amount of fuel within the RUL tank's STP sump. This should be removed and properly disposed of and the source found and addressed.
- The RUL tank's vapor recovery port contained a small amount of water.
- The Premium tank's vapor recovery port and the spill bucket contained a small amount of water.
- The Diesel tank's spill bucket contained a small amount of water.
- The UDC of dispenser [3/4] contained a small amount of fluid. It appeared to be fuel, however the fuel indication paste did not react.

The following are VIOLATIONS discovered during the inspection that will need to be corrected to avoid further action and achieve compliance with the state underground storage tank program. Submit all Compliance Documents to [USTCompliance@idem.IN.gov](mailto:USTCompliance@idem.IN.gov) with FID in subject line.

1. At the time of inspection, the RUL spill bucket was more than half full of fuel and would not function as designed in the event of a spill or overfill. The UST owner should remove and properly dispose of the fuel and provide documentation to IDEM.
2. At the time of inspection, there was a crack within the side wall of the Premium tank's spill bucket. The UST owner should contract with a certified contractor to repair and / or replace this spill bucket and provide documentation to IDEM detailing the work that was completed.
3. The testing document provided on 11/22/2021 indicated that the overfill alarm is set at 95%. An overfill alarm must trigger at 90%. In addition, the technician is not licensed to work in Indiana.

\*Reminder: Updates to the rule defining underground storage tank regulations are here. Updates affect regulations regarding: sump and spill bucket testing, operator training, monthly walkthrough inspections and more. Be sure to check [www.in.gov/idem/tanks](http://www.in.gov/idem/tanks) for the latest information regarding compliance of your underground storage tank system.