



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Closure/Storage Tank Enforcement: Tennessee Department of Environment and Conservation/FedEx Ground Package System, Inc. Order and Assessment

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The Tennessee Department of Environment and Conservation ("TDEC") issued an October 12th Order and Assessment ("Order") to FedEx Ground Package System, Inc. ("FedEx") for allegedly violating certain state rules related to the closure of underground storage tanks ("USTs").

The Order states that FedEx is the registered owner of five USTs located at a company facility in Nashville, Tennessee.

The federal and various state UST rules impose various requirements on owners and operators when these USTs are permanently removed from service. Whether removed or closed in place tasks that must be undertaken will generally include requirements such as notification of upcoming closure to the agency, sampling for contaminants in the vicinity of the USTs, corrective action if actionable contamination is discovered, etc.

The Underground Storage Tank Division ("Division") of the TDEC is stated to have received a December 3rd, 2015 telephone call from a Harco Services, LLC representative inquiring about UST permanent closure requirements. The representative is alleged to have stated that permanent closure of one FedEx UST system was already planned for January 8, 2016. The representative is stated to have been informed of the UST permanent closure guidelines ("Guidelines") and instructed to submit an electronic version of the Permanent Closure Application ("PCA") to expedite review.

The Order states Division personnel identified a deficiency on the PCA form that it had received on December 31, 2015 for the UST proposed to be closed on January 8, 2016. The alleged deficiency is identified as:

... Failure to depict sample collection locations on the PCA site map. ...

This deficiency is stated to have prevented approval of the previously referenced application.

The Order further states that on January 6, 2016 Division personnel received a voice message from an environmental contractor noting that the UST system closure was underway and that:

... water was encountered in the tank put upon UST removal, and that contractor First Response was onsite removing the tank pit water.

These closure activities are alleged to have been taking place without the required Division approval of a PCA.

On or about January 7th Division personnel are stated to have sent an electronic message to Wayne Graham stating that:

. . .the Permanent Closure Application was not yet approved, that a corrected site map depicting sample collection locations was required to complete the application and that the Division had been notified about tank closure activities occurring on January 6, 2016.

Division personnel allegedly inspected the previously referenced site on January 7th and determined that the UST was “already on the ground outside the tank pit and the tank pit filled with material.”

An Enforcement Action Notice – Unapproved Underground Storage Closure letter was stated to have been sent to FedEx citing the following alleged violations:

- Failure to obtain Division approval prior to permanent closure of UST systems in accordance with Rule 0400-18-01-.07(4)(a)2
- Failure to notify the Division at least one working day in advance of any routine field activity in accordance with Rule 0400-18-01-.06(1)(b)1(i)

The Division subsequently received a revised site map for the PCA depicting sample collection locations and then provided FedEx an approval letter for the PCA.

The Order requests that FedEx pay a civil penalty in the amount of \$3,200.

The Order includes a “Notice of Rights” providing an opportunity to appeal the imposition of the penalty.

[A copy of the Order and Assessment can be downloaded here.](#)