Fund Eligibility/Storage Tank Enforcement: Tennessee Department of Environment and Conservation Proposed Order and Assessment Addressing Memphis Facility

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

11/19/2025

The Tennessee Department of Environment and Conservation ("TDEC") issued an October 13th Proposed Order and Assessment ("Order") to Mack's Convenience Stores ("MCS") addressing alleged violations of the Tennessee Underground Storage Tank ("UST") regulations.

The Order provides that MCS is the registered owner of three single-compartment UST systems located in Memphis, Tennessee.

The Order denominates the facility as "Circle K Store no. 4703672".

The TDEC Division of Underground Storage Tanks ("Division") is stated to have been notified of a Phase II Subsurface Investigation Report on May 28th. The report is stated to have been initially prepared for In-N-Out Burgers Real Estate Development Counsel and was provided to MCS on May 16th.

The Phase II analytical reports are stated to have contained reported sampling analysis indicting contamination was present. The March 11th analytical summary table is stated to have indicated contamination above the Division's Initial Screening Levels ("ISLs").

The Division performed a compliance inspection at the MCS facility on June 6th. The inspector is stated to have discovered violations. The violations are stated to have been addressed, but they impact the deductible (referencing a failure to report a release to the Division within 72 hours).

MCS is stated to have been notified of the confirmed release via the Phase II report on May 16th but did not report to the Division until May 28th.

MCS submitted an Application for Fund Eligibility to the Division on June 3rd regarding the March 11th release.

The following violations are stated to have been identified during the June 5th compliance inspection:

- Failure to conduct a system test when there is a suspected release to determine whether a leak exists in the tank or delivery piping or a breach exists in either wall of secondary containment.

The Division is stated to have received a passing tank tightness test on September 29th for tank #1A. On October 1st the Division received a tank tightness test dated July 8th for three additional tanks and tank

#1A is stated to have failed the wet portion of the test and passed the dry portion. The Division is stated to have determined that the tightness testing done for tanks 2A and 3A was not done in accordance with the testing equipment manufacturer's National Work Group of Leak Detection Evaluations.

Division personnel determined that the facility did not meet the requirements for minimum deductible for the release and therefore, the deductible is $30,000.00.

The Order requires that MCS perform release investigation and remediation activities within the timeframes determined by the Division.

Further, certain remedial actions are required to be undertaken and civil penalty of $4,000.00 is assessed.

The Order provides certain appeal rights.

A copy of the Order can be downloaded here.