



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Underground Storage Tanks
Davy Crockett Tower
500 James Robertson Parkway, 7th Floor
Nashville, Tennessee 37243

March 19, 2026

Margaret L. Behm
1310 Sixth Avenue North
Nashville, Tennessee 37208

Served via Private Process Server

Re: MTA Nestor Street Bus Garage
130 Nestor Street
Nashville, Tennessee 37210
Facility ID # 5-190057
Case # FDA26-0033

Dear Metro Transit Authority:

Enclosed is a Director's Order and Assessment ("Order") for violations of the Tennessee Petroleum Underground Storage Tank Act and relevant rules. This Order is issued by the State of Tennessee, Department of Environment and Conservation, Division of Underground Storage Tanks.

The Division reviewed the Application for Fund Eligibility for the above referenced facility and determined that this facility meets the requirements for fund eligibility for a release occurring on or after June 15, 2021. Reimbursement of the approved corrective action costs for this release is authorized. The deductible for releases which occur on or after June 15, 2021, is \$5,000.00 provided the facility meets all requirements listed in Rule 0400-18-01-.09(6). Tenn. Comp. R. & Regs. 0400-18-01-.09. Based on the information provided on the Application for Fund Eligibility and violations discovered, the deductible for the release is **\$30,000.00**.

Please read the Order carefully and pay special attention to the **Notice of Rights** section. Please note that the required due dates in the Order are based on the date the Respondent receives the Order, not the date that it was signed by the Director. Any appeal must be made in writing and be received by the Division within thirty days after your receipt of the Order.

If you have any questions about this matter, please contact Matthew Bargery at (901) 422-3896 or Matthew.Bargery@tn.gov.

Sincerely,

Stanley R. Boyd
Director

cc: Enforcement File
Nashville Environmental Field Office

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	
)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
)	
METRO TRANSIT AUTHORITY)	CASE NO. FDA26-0033
)	
)	
RESPONDENT.)	FACILITY: MTA NESTOR STREET
)	BUS GARAGE

ORDER AND ASSESSMENT

David W. Salyers, P.E., Commissioner of the Tennessee Department of Environment and Conservation (the "Commissioner"), states:

PARTIES

I.

David W. Salyers, P.E., is the duly appointed Commissioner of the Department of Environment and Conservation ("Department") and is charged with administering and enforcing the Tennessee Petroleum Underground Storage Tank Act ("Act"), Tenn. Code Ann. §§ 68-215-101 to -204. Stanley R. Boyd is the duly appointed Director of the Division of Underground Storage Tanks ("Division"). He has received written delegation from the Commissioner to administer and enforce the Act.

II.

Metro Transit Authority ("Respondent") is the property owner and registered owner of two underground storage tank ("UST") systems located in Davidson County at 130 Nestor Street, Nashville, Tennessee 37210. Service of process may be made on Margaret L. Behm at 1310 Sixth Avenue North, Nashville, Tennessee 37208.

JURISDICTION

III.

When the Commissioner finds that the Act is being violated or that effective measures are not in place to comply with the provisions of the Act, the Commissioner may issue an order for correction to the

responsible party and assess civil penalties of up to \$10,000.00 for each day a violation exists. Tenn. Code Ann. §§ 68-215-114 and -121. If this Order becomes final, the Commissioner may affix a notice of petroleum delivery prohibition (also known as a “red tag”) to the facility fill ports or dispensers or give notice on the Department’s website of petroleum delivery prohibition. Tenn. Code Ann. § 68-215-106(c). Rules governing underground storage tanks have been promulgated and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 (“Rules”). Tenn. Code Ann. § 68-215-107(f).

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-215-103(11), a “responsible party,” Tenn. Code Ann. § 68-215-103(17)(A), and has violated the Act.

FACTS

V.

On July 17, 2014, the Division received a Notification for Underground Storage Tanks form, listing the Respondent as the owner of the two UST systems located at 130 Nestor Street, Nashville, Tennessee 37210 (“Facility”). The facility ID number is 5-190057.

VI.

On April 14, 2025, the Division received an Application for Permanent Closure of Underground Storage Tank (UST) Systems from the Respondent.

VII.

On April 22, 2025, the Division mailed a Permanent Closure Application – Approved with comments letter to the Respondent.

VIII.

On September 30, 2025, the Division received an email from the Respondent’s Corrective Action Contractor, Ensafe, with a soil sample analytical report dated September 2, 2025. This report showed detectable amounts of EPH in the samples, which were collected on August 18, 2025.

IX.

On November 5, 2025, the Division received an Application for Fund Eligibility from the Respondent for the release at the facility identified in the September 2, 2025, report.

X.

Division personnel reviewed the Application for Fund Eligibility along with the documentation required by Rule 0400-18-01-.09. Based upon this review, Division personnel determined that this facility did not meet the requirements for the minimum deductible for the release due to the following:

- Failure to report a suspected release to the Division within 72 hours in accordance with Rule 0400-18-01-.05(1)(a). Specifically, the soil sample analytical report dated September 2, 2025, showed detectable amounts of EPH in the soil and was not reported to the Division until September 30, 2025.

The deductible for the release is \$30,000.00.

VIOLATIONS

XI.

By failing to operate a UST in compliance with the Act, the Respondent violated Tennessee Code Annotated section 68-215-104(2), which states:

It is unlawful to: Construct, alter or operate a petroleum underground storage tank in violation of this chapter or the rules or regulations established pursuant thereto[.]

XII.

The Respondent violated Rule 0400-18-01-.05(1)(a), which states:

0400-18-01-.05 RELEASE REPORTING, INVESTIGATION AND CONFIRMATION.

(1) Reporting of Suspected Releases.

(a) Owners and/or operators of UST systems shall report to the division within 72 hours and follow the procedures in paragraph (3) of Rule 0400-18-01-.05 for any of the following conditions:

1. The discovery by owners and/or operators or others of released petroleum at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water).
2. Unusual operating conditions observed by owners and/or operators (such as the erratic behavior of petroleum dispensing equipment, the sudden loss of petroleum from the UST system, or an unexplained presence of water in the tank, or liquid in the interstitial space of secondary contained systems), unless:

- (i) The system equipment or component is found not to be releasing petroleum into the environment;
 - (ii) Any defective system equipment or component is immediately repaired or replaced; and
 - (iii) For secondarily contained systems any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.
3. Monitoring results, including investigation of an alarm, from a release detection method required under paragraph (2) of Rule 0400-18-01-.04 that indicate a release may have occurred unless:
- (i) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring within 30 days does not confirm the initial result;
 - (ii) The leak is contained in the secondary containment and conditions of subparts 2.(ii) and (iii) of this subparagraph are met;
 - (iii) The investigation determines no release has occurred; or
 - (iv) The alarm was investigated and determined to be a non-release event (for example, from a power surge caused by filling the tank during release detection testing).

ORDER AND ASSESSMENT

XIII.

Pursuant to the authority vested by sections 68-215-107, -114, and -121 of the Act, the Respondent is issued the following Order:

1. The Application for Fund Eligibility for the September 2, 2025, suspected release is approved with a deductible of \$30,000.00.
2. The Respondent shall perform release investigation and remediation activities of Rule 0400-18-01-.06 within the timeframes determined by the Division.
3. If the Respondent fails to comply with this order and/or file an appeal within the timeframes stated below, **the above referenced facility will be placed on the Delivery Prohibition List and the fill ports or dispensers will be red tagged until compliance is achieved.** Tenn. Code Ann. § 68-215-106(c).

4. **Additional Civil Penalties and Remedial Action**: The Respondent shall pay additional civil penalties as follows:

- i. One violation assessed at \$3,200.00 for failing to report a suspected release if the release is subsequently confirmed and additional action is required under Rule 0400-18-01-.06 or if the release is not investigated in accordance with Rules 0400-18-01-.05(2) and (3) and within a schedule established by the Division.
- ii. All payments should be sent to the following address

Treasurer, State of Tennessee
Division of Fiscal Services – Consolidated Fees Section
Davy Crockett Tower
500 James Robertson Parkway, 6th Floor
Nashville, Tennessee 37243

5. Failure to comply with any of the requirements of this Order could lead to further enforcement actions which may include additional civil penalties, assessment of damages and recovery of costs.

6. With the exception of the deadline for filing the appeal of this Order, the Department may extend the compliance dates contained within this Order for a fixed time period for good cause shown by the Respondent. To be eligible for this time extension, the Respondent shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay. The Department will reply to the Respondent's request in writing, establishing a new deadline for compliance with this Order. Should the Respondent fail to meet the requirements of this Order by the new deadline, then any associated civil penalty shall be due within thirty days after that deadline. The request for an extension of time does not change the deadline to submit an appeal. See Notice of Rights.

RESERVATION OF RIGHTS

In issuing this Order, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this Order will be considered as a mitigating factor in determining the need for future enforcement action(s).

NOTICE OF RIGHTS

The Respondent may appeal this Order. Tenn. Code Ann. § 68-215-119. To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Commissioner within thirty days of the date the Respondent received this Order or this Order will become final.

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-215-119; Tenn. Code Ann. §§ 4-5-301 to -326 (the Uniform Administrative Procedures Act); and Tenn. Comp. R. & Regs. 1360-04-01 (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue a contested case through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny the Order. Furthermore, the Administrative Judge on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Any petition for review (appeal) must be directed to the Commissioner of the Tennessee Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Pkwy, 5th Floor, Nashville, Tennessee 37243. The petition may be mailed or delivered to this address, or it may be sent to TDEC.Appeals@tn.gov. Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services – Consolidated Fees Section, Department of Environment and Conservation,


Davy Crockett Tower, 500 James Robertson Pkwy, 6th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Matthew Bargery, Memphis Environmental Field Office, 8383 Wolf Lake Dr, Bartlett, TN 38133. Attorneys should contact the undersigned counsel of record. **The case number, FDA26-0033, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Underground Storage Tanks, Tennessee Department of Environment and Conservation, on this 19th day of March, 2026.



Stanley R. Boyd, Director
Division of Underground Storage Tanks
TN Department of Environment and Conservation

Reviewed by:



[Sean C. McGarvey \(Mar 19, 2026 15:40:58 CDT\)](#)

Sean C. McGarvey
Arizona Bar No. 030874
Practicing pending admission to Tennessee Bar pursuant to Tenn. Sup. Ct. R. 7, sec 10.07
Associate Counsel
Department of Environment and Conservation
500 James Robertson Parkway, 5th Floor
Nashville, Tennessee 37243
(615) 946-4370
Sean.McGarvey@tn.gov