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# Trust Fund Eligibility Determination/Storage Tank Enforcement: Proposed Tennessee Department of Environment and Conservation Order Addressing Newport Facility

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The Tennessee Department of Environment and Conservation (“TDEC”) issued a November 7th proposed Order and Assessment (“Order”) to Boghani Properties, LLC (“Boghani”) for alleged violations of the Tennessee Underground Storage Tank (“UST”) regulations. See Case No. FDA22-0016.

The facility is denominated Mr. Gas Market #7 (“Facility”) and located in Newport, Tennessee.

The Order states that Boghani is the registered owner of four UST systems at the Facility.

TDEC Division of Underground Storage Tanks (“Division”) personnel are stated to have conducted an operational compliance inspection at the Facility on February 8th.

Division personnel are stated to have discovered the following violations:

- Failure to remove dispenser cover and visually inspect for releases, seeps, drips at least quarterly
- Failure to have overfill prevention equipment
- Failure to install piping in accordance with manufacturer’s installation instructions
- Failure to monitor spill prevention equipment at least once every three years
- Failure to keep spill catchment basins free of water, dirt, debris, etc.
- Failure to perform periodic walk-through inspections
- Failure to inspect catchment basins at least monthly and maintain a log of the monthly inspections for the last 12 months
- Failure to install, calibrate, operate, or maintain release detection method for piping in accordance with manufacturer’s instructions
- Failure to ensure that electronic and mechanical components are tested annually for proper operation
- Failure of facility having one or more petroleum UST systems to have one or more persons designated as Class A, Class B, or Class C operators
- Failure to ensure that cathodic protection system is tested within six months of installation and every three years thereafter

- Failure to monitor tanks at least monthly

The Division is stated to have sent a Results of Compliance Inspection to Boghani on February 10th. Further, Division personnel are stated to have received failing line tightness testing results for the diesel line on February 10th. This documentation is stated to have resulted in an additional violation which encompassed failure to repair or replace any tanks or piping which have had a structural failure.

The Order describes various documentation that Division personnel received addressing some of the violations discovered at the time of the inspection.

Division personnel received an Application for Fund Eligibility on April 1st from Boghani for the February 8th release at the Facility.

Additional documentation was received regarding training that was undertaken and other documents to address the alleged violations.

Division personnel reviewed an Application for Fund Eligibility from Boghani and determined that it did not meet the requirements for a minimum deductible for the release due to certain specific alleged violations.

The Order proposes that the Boghani Application for Fund Eligibility for the February 8th release is approved with a deductible of \$20,000. The Order also requires release investigation and remediation activities. In addition, a proposed penalty of \$8,000 is assessed.

The Order provides certain appeal rights.

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