

Trust Fund Deductible/Storage Tank Enforcement: Tennessee Department of Environment and Conservation Proposed Order Addressing Smithville Facility



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

10/29/2024

The Tennessee Department of Environment and Conservation (“TDEC”) issued an October 9th Proposed Order and Assessment (“Order”) to RMK LLC. See Case No. FDA24-0044.

RMK is stated to be the owner of two underground storage tank (“UST”) systems located in Smithville, Tennessee.

The TDEC Division of Underground Storage Tanks (“Division”) is stated to have received a “Buyer’s Notification” for Underground Storage Tanks form, listing RMK as the owner of two UST systems in Smithville, Tennessee. The Division is stated to have received a phone call on April 18th from Mr. Reda Hanna stating that a leak was discovered from a piping on April 17th. The individual stated that the pump was shut down and Phillips Sales and Service, Inc. investigated and told him that he needed to report the leak.

The Division is stated to have sent a Confirmation of Compliance Inspection Appointment letter to RMK on April 19th, confirming an inspection date of April 22nd.

Division personnel are stated to have performed a compliance inspection at the Facility on April 22nd and discovered violations, one of which had not been addressed:

- Failure to provide a release detection method capable of detecting a release from tank that routinely contains product.

The Order lists as a violation that has been corrected:

- Failure to perform periodic and annual walkthrough inspections.

While this alleged violation has been addressed, it is stated to affect the deductible.

The Division received an Application for Fund Eligibility on May 20th for the April 17th release. However, the application is stated to not have a signed Corrective Action Contractor contract attached.

Division personnel are stated to have issued a Site Check Report – Not Provided letter to RMK citing the following violation:

- Failure to conduct a site check.

- Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping.
- Failure to repair or replace any tanks or piping which have had a structural failure.

Due to the alleged violations, the deductible for the release is stated to be \$20,000.00. In addition, the Proposed Order requires that RMK perform release investigation and remediation activities within the timeframes determined by the Division. Further, the entity is required to perform all actions necessary to correct the outstanding violations to bring the facility into full compliance with regulatory requirements.

A civil penalty of \$21,600.00 is assessed.

The Proposed Order provides certain appeal rights.

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