

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
DEPARTMENT OF ENVIRONMENT)	
AND CONSERVATION,)	CASE NUMBER UST22-0164
<i>Petitioner,</i>)	
)	
v.)	
)	
ZIPTRON ENERGY, INC.,)	FACILITY: CLINTON HIGHWAY SHELL
<i>Respondent.</i>)	

AGREED FINAL ORDER

On September 6, 2023, Order and Assessment UST22-0164 (the “Order”) was issued to Ziptron Energy, Inc. (the “Respondent”). The Respondent and the Department of Environment and Conservation (“Department”) shall be collectively called the “Parties.”

The Respondent did not file a timely appeal of the Order. As a result, the Order became final on November 13, 2023. For good cause shown, the Department hereby dismisses the Order. This Agreed Final Order resolves and supersedes the Order. The Parties further stipulate and agree as follows:

PARTIES

I.

David W. Salyers, P.E., is the duly appointed Commissioner of the 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 (“Director”) of the Division of Underground Storage Tanks (“Division”) and has received written delegation from the Commissioner to administer and enforce the Act.

II.

Ziptron Energy, Inc. is a corporation created in Tennessee and is properly registered to conduct business in Tennessee. The Respondent is the registered owner of four underground storage tank

("UST") systems located at 6730 Clinton Highway, Knoxville, Tennessee 37912. Service of process may be made on the Respondent's Registered Agent, Muradali Bharwani, at 106 Western Avenue, Morristown, Tennessee 37814.

JURISDICTION

III.

When the Commissioner finds upon investigation that any provision of the Act is not being carried out, and that effective measures are not being taken to comply with the provisions of the Act, the Commissioner may issue an order for correction to the responsible party, and the order shall be complied with within the time limit specified in the order. Tenn. Code Ann. § 68-215-114. If an order becomes final, the Commissioner may affix a notice of petroleum delivery prohibition ("red tag") to the facility fill ports and/or dispensers and give notice on the Department's website of petroleum delivery prohibition. Tenn. Code Ann. § 68-215-106(c). Further, the Commissioner is authorized to assess civil penalties and damages against any person who violates or fails to comply with the Act. Tenn. Code Ann. § 68-215-121. Rules governing USTs have been promulgated pursuant to Tenn. Code Ann. § 68-215-107(f) and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 ("Rules").

IV.

The Respondent is a person as defined at Tennessee Code Annotated section 68-215-103(11), a responsible party as defined at Tennessee Code Annotated section 68-215-117(A), and has violated the Act.

FACTS

V.

On June 14, 2022, Division personnel performed a compliance inspection at the subject facility. The inspector discovered multiple violations.

VI.

Prior to the issuance of the Order, the Respondent addressed some of the violation discovered during the inspection but failed to address the violations set forth below.

VIOLATIONS

VII.

By failing to operate a petroleum underground storage tank system in compliance with the Act, the Respondent violated Tenn. Code Ann. 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[...]

VIII.

By failing to have overfill prevention equipment that will alert the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank, the Respondent violated Rule 0400-18-01-.02(3)(a)1(ii)(II), which states:

0400-18-01-.02 UST Systems: Installation and Operation.

(3) Spill and overfill prevention.

(a) Equipment.

1. Except as provided in parts 2. and 3. of this subparagraph, to prevent spilling and overfilling associated with petroleum transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment:

(i) Overfill prevention equipment that will:

- (I) Automatically shut off flow into the tank when the tank is no more than 95% full;
- (II) Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm; or...

IX.

By failing to cooperate with the Division, the Respondent violated Rule 0400-18-01-.03(2), which states:

0400-18-01-.03 Notification, Reporting, and Record Keeping.

(2) Reporting and record keeping.

Owners, operators, and/or other responsible parties of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the Division, as well as requests for document submission, testing, and monitoring by the owner, operator, and/or other responsible parties in accordance with the Tennessee Petroleum Underground Storage Tank Act T.C.A. §§ 68-215-101 et seq. [...]

X.

After the Order was issued, the Respondent submitted documentation to the Division showing that the outstanding violations set forth in the Order were addressed. Accordingly, the Respondent has now addressed the violations set forth in the Order and recited above.

ORDER AND ASSESSMENT

XI.

Pursuant to the authority vested by Tennessee Code Annotated sections 68-215-107, 68-215-114, and 68-215-121 of the Act, the Director orders, and the Respondent agrees, as follows:

1. The Respondent shall not allow any Probation Violations, as listed in Exhibit A attached to this Agreed Final Order, to occur at the Facility for a period of one year from the Effective Date of this Agreed Final Order. The Division reserves its rights to reinspect the Facility as needed to ensure compliance with this provision and with the Act.

2. The Respondent is assessed a civil penalty totaling \$9,600.00 and \$125.00 in damages for the cost of the private process server. The Respondent shall pay as follows:

- a. Within 30 days of the Effective Date of this Agreed Final Order the Respondent shall pay \$6,975.00 This amount represents an assessed civil penalty of \$6,850.00 plus \$125.00 for the cost of the private process server used to serve the Order. Should the payment due date

be a Saturday, Sunday, or legal State holiday, the payment shall be paid such that it is received by the Department not later than the next business day following such a day.

b. The Respondent shall pay the remaining unpaid portion of the \$9,600.00 civil penalty within fifteen days of the following:

- i. A Probation Violation occurs at the Facility within one year of the Effective Date of this Agreed Final Order;
- ii. The Respondent fails to timely make the payment provided for in paragraph 2.a; or
- iii. The Respondent fails to otherwise comply with any other provision set forth in this Agreed Final Order.

3. All payments contemplated herein must be made payable to the **“Treasurer, State of Tennessee”** and sent to the **Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Pkwy, 6th Floor, Nashville, Tennessee 37243**. The case number, UST22-0164, must be clearly shown on the check or money order to ensure that the payment is properly credited.

4. This Agreed Final Order is final for purposes of Tennessee Code Annotated sections 68-215-106(c); -115(b)(2); -119(a); and -121(b)(4) and (5). If the Respondent fails to comply with this Agreed Final Order, the remaining unpaid portion of the civil penalty shall be due and owing and **the Facility will be placed on the Delivery Prohibition List and the fill ports and dispensers will be red tagged until any unpaid civil penalties are paid and compliance is achieved.**

5. Each of the undersigned representatives is fully authorized by the Party he or she represents to enter into the terms and conditions of this Agreed Final Order and is authorized to legally bind such Party to this agreement.

6. The **“Effective Date”** of this Agreed Final Order shall be the date it is approved and

signed by the Director of the Division of Underground Storage Tanks, provided that all parties have signed.

DEPARTMENT'S RESERVATION OF RIGHTS

XII.

In entering this Agreed Final 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, and/or damages incurred by the State against the Respondents. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/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).

Issued by the Director of the Division of Underground Storage Tanks and agreed to by

Ziptron Energy, Inc. on this 4th day of April 2025



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



Ziptron Energy, Inc.

By: Tim Howard

Title: Director of Operations

Reviewed by:

Austin M. Moore

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EXHIBIT A - LIST OF PROBATION VIOLATIONS

Violation	State Cite	Rule Section
Failure of tanks installed on or after July 24, 2007 to be secondarily contained.	0400-18-01-.02(2)(a)1	UST Systems: Installation & Operation (Secondary Containment)
Failure to provide interstitial monitoring on tanks installed on or after July 24, 2007.	0400-18-01-.02(2)(a)5	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 2007 to be secondarily contained.	0400-18-01-.02(2)(b)1	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 2007 to be monitored for a release at least every thirty (30) days.	0400-18-01-.02(2)(b)5	UST Systems: Installation & Operation (Secondary Containment)
Failure to install any spill prevention system.	0400-18-01-.02(3)(a)1(i)	UST Systems: Installation & Operation
Failure to install any overfill prevention system.	0400-18-01-.02(3)(a)1(ii)	UST Systems: Installation & Operation
Failure to provide any cathodic protection for metal tanks.	0400-18-01-.02(4)(a)	UST Systems: Installation & Operation
Failure to permanently close a lined tank where CP was not added by the December 22, 2012 deadline.	0400-18-01-.02(4)(a)3(v)	UST Systems: Installation & Operation
Failure to provide any cathodic protection for metal piping.	0400-18-01-.02(4)(b)	UST Systems: Installation & Operation
Failure to provide release detection method capable of detecting a release from tank or piping that routinely contains product.	0400-18-01-.04(1)(a)1	Release Detection (General)
Failure to install, calibrate, operate, or maintain release detection method in accordance with manufacturer's instructions.	0400-18-01-.04(1)(a)2	Release Detection (General)
Failure to provide a release detection method that meets the performance requirements for tanks or piping.	0400-18-01-.04(1)(a)3	Release Detection (General)
Failure to monitor tanks at least every 30 days, if appropriate.	0400-18-01-.04(2)(a)	Release Detection (General)
Failure to provide any release detection for underground piping.	0400-18-01-.04(2)(b)	Release Detection (Piping)
Failure to install line leak detector for pressurized underground piping.	0400-18-01-.04(2)(b)1(i)	Release Detection (Pressurized Piping)
Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping	0400-18-01-.04(2)(b)1(ii)	Release Detection (Pressurized Piping)
Failure to comply with general remedial requirements.	0400-18-01-.06	Petroleum Release Response, Remediation, and Risk Management
Division not notified of tank closure.	0400-18-01-.07(4)(a)1-2	Out-of-Service UST Systems and Closure
Failure to conduct system closure sampling.	0400-18-01-.07(5)(a)-(b)	Out-of-Service UST Systems and Closure
Failure to register an underground storage tank in accordance with the statute.	Tenn. Code Ann. § 68-215-106(a)	Tennessee Code Annotated
Placing petroleum into an underground storage tank system(s) where the Division has attached a tag or notice to the dispensers or fill ports or that has been placed on the Delivery Prohibition list on the website.	Tenn. Code Ann. §§ 68-215-106(c) and (e) 0400-18-01-.10(6)(a)	Fee Collection
Illegal Red Tag Removal	Tenn. Code Ann. § 68-215-106(c)-(d)	Tennessee Code Annotated