



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Underground Storage Tanks
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 12th Floor
Nashville, Tennessee 37243

September 23, 2021

Racetrac Petroleum, Inc.
c/o Corporate Creations Network, Inc., Registered Agent
205 Powell Place
Brentwood, Tennessee 37027-7522

Certified Mail # 9315 4699 0430 0086 9173 03

Re: RaceTrac #2550
1810 Wilma Rudolph Boulevard
Clarksville, Tennessee 37040
Facility ID # 5-630466
Case # UST21-0116

Dear Sir or Madam:

Enclosed is an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks. The violation was discovered during a facility inspection conducted on September 1, 2020. Specifically, Division personnel discovered:

Violation #1¹: Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping Rule 0400-18-01-.04(2)(b)1(ii).

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total</u>
\$2,000.00	5	\$10,000.00

Total Amount of your Civil Penalty: \$10,000.00

The record reflects that, upon being notified, you performed the necessary actions to address the violation(s) and returned to compliance. The Division is appreciative of your effort to return to compliance. For this reason, please note that the enclosed Order provides that you may resolve this matter without appeal for a **reduction of up to one hundred percent** in the above civil penalty.

Please carefully review the enclosed Order, including the Options set out in Section XIV., and the Notice of Rights, which explains the appeal process. If you elect Option B or Option C, then you must submit payment, on or before the thirty-first day after receipt of this Order. Payment shall be submitted to the following address:

Department of Environment & Conservation
Division of Fiscal Services – Fee Section
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 10th Floor
Nashville, Tennessee 37243

¹ Violation #1 previously cited as Rule 0400-18-01-.04(4)(c)1(i).

Payment of the civil penalty shall be made payable to the "Treasurer, State of Tennessee". The case number shown on the first page of the enclosed Order should be written on said payment(s).

If you accept Option A, the Division's offer to resolve this matter by attending Underground Storage Tank Training, then you must return the enclosed REQUEST TO ATTEND UNDERGROUND STORAGE TANK TRAINING form on or before the thirty-first day after receipt of this Order. Return the request form to the following address:

Tonya Spence Casson
Division of underground Storage Tanks
Chattanooga Environmental Field Office
1301 Riverfront Parkway
Chattanooga, Tennessee 37402

If you decline the options set out in Section XIV., then you may choose to exercise your right to appeal by the deadline stated in the Notice of Rights.

If you neither accept the Division's offer nor timely appeal, then the entire civil penalty amount of \$10,000.00 will become due and subject to collection.

If you have any questions about this matter, please contact Tonya Spence Casson at (423) 637-5432 or tonya.spence.casson@tn.gov.

Sincerely,



Stanley R. Boyd
Director

cc: Enforcement file
Nashville Environmental Field Office

AUTOMATIC ENFORCEMENT 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

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
RACETRAC PETROLEUM, INC.)	
)	CASE NO. UST21-0116
RESPONDENT)	FACILITY: RACETRAC #2550

ORDER AND ASSESSMENT

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

PARTIES

I.

David W. Salyers, P.E. is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation ("Department"), and among other duties and responsibilities, he is charged with the responsibility for administering and enforcing the Tennessee Petroleum Underground Storage Tank Act ("Act"), Tenn. Code Ann. sections 68-215-101 to - 129. Stanley R. Boyd is the duly appointed Director ("Director") of the Underground Storage Tank Division ("Division"). He has received written delegation from the Commissioner to administer and enforce particular aspects of the Act.

II.

Racetrac Petroleum, Inc. ("Respondent") is a corporation created in the State of Georgia and is properly registered to conduct business in Tennessee. The Respondent is the registered owner of five underground storage tank ("UST") systems located at 1810 Wilma Rudolph Boulevard, Clarksville, Tennessee, 37040. Service of process may be made on the Respondent's Registered Agent, Corporate Creations Network, Inc., at 205 Powell Place, Brentwood, Tennessee, 37027-7522.

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 this Order shall be complied

with within the time limit specified in the Order. Tenn. Code Ann. § 68-215-114. If this Order becomes final, the Commissioner may red tag 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 against any person who violates or fails to comply with the Act. Tenn. Code Ann. § 68-215-121. Rules governing underground storage tanks have been promulgated pursuant to Tenn. Code Ann. section 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 Tenn. Code Ann. section 68-215-103(11) and has violated the Act as hereinafter stated.

FACTS

V.

On or about April 1, 2019, the Division received a Pre-Installation Notification for Underground Storage Tanks form, signed by Jordan Woodfin, Compliance Manager, listing the Respondent as the owner of the five UST systems located at 1810 Wilma Rudolph Boulevard, Clarksville, Tennessee, 37040. The facility ID number is 5-630466.

VI.

On or about August 13, 2020, Division personnel contacted the Respondent and scheduled a compliance inspection to be conducted on September 1, 2020.

VII.

On or about September 1, 2020, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violations:

Violation #1: Failure to be able to detect a leak through the inner wall of double-walled UST system piping that routinely contains petroleum in accordance with Rule 0400-18-01-.04(4)(c)1(i)². Specifically, at the time of inspection, the test boots in the Submersible Turbine Pump (STP) sumps for all tank systems were closed. Additionally, the test boots under each dispenser had test jumpers still attached to either both test boots or were attached and capped not allowing the sensor to monitor the interstice of the piping.

² This rule citation was corrected to Rule 0400-18-01-.04(2)(b)1(ii) to calculate civil penalty.

Violation #2: Failure to report a change of status for a UST system within thirty (30) days in accordance with Rule 0400-18-01-.03(1)(g). Specifically, at the time of inspection, all five tank systems were listed with the Division as Temporarily Out of Service (TOS) and were Currently In Use (CIU).

VIII.

On or about September 28, 2020, Division personnel sent a Results of Compliance Inspection letter to the Respondent. The letter cited the violations discovered during the inspection and required the Respondent to submit documentation to the Division by October 28, 2020, to demonstrate compliance.

IX.

On or about September 30, 2020, the Division received compliance documentation addressing the violations discovered at the time of inspection. The Division received a Notification for Underground Storage Tanks form changing the status of all tank systems from TOS to CIU. This documentation returned Violation #2 to compliance.

X.

On or about October 6, 2020, the Division received compliance documentation addressing the violations discovered at the time of inspection. The Division received a Work Order and photographs showing the test boots corrected and the test jumpers removed. This documentation returned Violation #1 to compliance.

The documentation confirmed that the violations discovered during the inspection had been addressed, and the facility had returned to operational compliance.

XI.

On or about April 16, 2021, Division personnel sent a Follow-up Letter and Enforcement Action Notice letter to the Respondent. The letter cited the violations discovered during the inspection and the response received by the Division to address the violations.

VIOLATIONS

XII.

By failing to operate a petroleum underground storage tank in compliance with the Act, the Respondent has 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;

XIII.

By failing to conduct annual line tightness test or do monthly monitoring on pressurized underground piping, the Respondent has violated Rule 0400-18-01-.04(2)(b)1(ii), which states:

0400-18-01-.04 RELEASE DETECTION.

- (2) Requirements for petroleum UST systems.

Owners and/or operators of petroleum UST systems shall provide release detection for tanks and piping as follows:

- (b) Piping.

Underground piping that routinely contains petroleum shall be monitored for releases in a manner that meets one of the following requirements:

1. Pressurized piping.

Underground piping that conveys petroleum under pressure shall:

- (ii) Have an annual line tightness test conducted in accordance with subparagraph (4)(b) of this rule or have monthly monitoring conducted in accordance with subparagraph (4)(c) of this rule.

ORDER AND ASSESSMENT

XIV.

Pursuant to the authority vested by Tenn. Code Ann. sections 68-215-107, -114, and -121,

I, Stanley R. Boyd, acting as the authorized representative of the Commissioner, hereby issue the following Order and Assessment to the Respondent:

1. The Respondent is assessed a civil penalty of \$10,000.00 and must complete one of the following options:

Option A. Underground Storage Tank Training Option:

- i. On or before the thirty-first day after receiving this Order, the Respondent shall return a signed Request to Attend Underground Storage Tank Training form to the address that appears on the request form, which is enclosed. The Respondent must attend Underground Storage Tank Training within **one year** after receiving this Order.

- ii. If the Respondent timely submits the Request To Attend Underground Storage Tank Training, then the Respondent shall pay the **full civil penalty**, if and only if, one of the following occurs:
 - a. The Respondent fails to successfully complete attendance at Underground Storage Tank Training. If the Respondent does not successfully attend the training, then payment of the full civil penalty shall be due within 30 days after expiration of the one-year period; or
 - b. The Division determines that an automatic enforcement violation has occurred at the facility during a one-year period to commence on the date of receipt of this Order. Payment of the civil penalty shall be made within 30 days following discovery of the automatic enforcement violation. A list of the violations that are treated as automatic enforcement violations for the purposes of this Order was enclosed with the Order.
- iii. In the event that the Division discovers any violation, including non-automatic enforcement violations, it reserves the right to assess additional civil penalties and to take any and all other enforcement actions that it deems necessary.

Option B. Twenty Percent Civil Penalty Payment Option:

- i. On or before the thirty-first day after receiving this Order, the Respondent shall pay 20% of the civil penalty, \$2,000.00.
- ii. If the Respondent timely pays the 20% payment, then the Respondent shall pay the remaining 80% of the civil penalty, \$8,000.00, if and only if, the Division determines that an automatic enforcement violation has occurred at the facility during a one-year period to commence on the date of receipt of this Order. Payment of the remaining 80% of the civil penalty shall be due within 30 days after the automatic enforcement violation is discovered. A list of the violations that are treated as automatic enforcement violations for the purposes of this Order was enclosed with the Order.
- iii. In the event that the Division discovers any violation, including non-automatic enforcement violations, it reserves the right to assess additional civil penalties and to take any and all other enforcement actions that it deems necessary.

Option C. Full Civil Penalty Payment Option:

On or before the thirty-first day after receiving this Order, the Respondent shall pay the **full civil penalty** in the amount of \$10,000.00.

RESERVATION OF RIGHTS

In issuing this Order and Assessment, 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 Respondent. 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).

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. 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 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment will become final.

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 69-215-119; Tenn. Code Ann. § 4-5-301 to -325 (the Uniform Administrative Procedures Act); 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 an appeal 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 ALJ has the authority to affirm, modify, or deny the Order and Assessment. Furthermore, the ALJ 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 ALJ 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, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243-1548. 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, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Tonya Spence Casson, Division of Underground Storage Tanks, Chattanooga Environment Field Office, 1301 Riverfront Parkway, Chattanooga, Tennessee, 37402 or tonya.spence.casson@tn.gov . Attorneys should contact the undersigned counsel of record. **The case number, UST21-0116, 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 23rd day of September, 2021.



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

Reviewed by:



.. (Sep 23, 2021 16:51 CDT)

George S. Bell, III
BPR# 19051
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2d Floor
Nashville, Tennessee 37243
615-741-3842
George.Bell@tn.gov



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Underground Storage Tanks
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 12th Floor
Nashville, Tennessee 37243

REQUEST TO ATTEND UNDERGROUND STORAGE TANK TRAINING ONLINE

Please complete this form to attend training on the proper operation of underground storage tanks in accordance with rules established by the State of Tennessee. This form serves as a reservation to attend UST systems and maintenance training online with the Division of Underground Storage Tanks.

Please use an active email address when completing this form as it will be the primary way the Division will provide information about the class and the web link to attend. Please carefully read the requirements below to successfully attend online Tank School. If any of these requirements cannot be met and you would still like to attend Tank School, please check this box:

Tank school classes are offered on specific dates throughout the year. All classes are from 8:30 am to 4:00 pm Central time / 9:30 am to 5:00 pm Eastern time. The Division usually schedules 3 tank school classes per year with make-up sessions available as needed. After receipt of this completed form, the Division will schedule a class with you.

I, _____ (Please Print Your Name), request to attend training on the proper operation of underground storage tanks.

Name: _____ Date: _____

My contact information is: Email: _____
 Telephone: _____
 Address: _____

Mail or Email this Request to:

Tonya Spence Casson
Division of Underground Storage Tanks
Chattanooga Environmental Field Office
1301 Riverfront Parkway
Chattanooga, Tennessee 37402
Phone # (432) 637-5432
tonya.spence.casson@tn.gov

REQUIREMENTS TO ATTEND ONLINE TANK SCHOOL

- ✓ **Access to a computer and reliable/good internet connection [1.0 Mbps (Receive) and 1.5 Mbps (Send) is recommended].**
- ✓ **Access to reliable (charged/wired) audio source (i.e., cell phone, computer speakers, headset, etc.)**
- ✓ **Valid email address**
- ✓ **Ability to complete an online pre-test prior to class and an online post-test after the class presentation.**
- ✓ **Ability to participate and attend entire online class (approximately 6 hours).**