



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Division of Solid Waste Management
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 14th Floor
Nashville, Tennessee 37243

March 11, 2022

C T Corporation System - Registered Agent
West Star Aviation, LLC
300 Montvue Road
Knoxville, TN 37919-5546

CERTIFIED MAIL
7020 1810 0001 8307 3180
RETURN RECEIPT REQUESTED

RE: CASE NO. HWM21-0019

To Whom It Concerns:

Enclosed please find an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Solid Waste Management to West Star Aviation, LLC. Please read it carefully and pay special attention to the NOTICE OF RIGHTS section.

Regarding payment of any penalties or damages, please submit a copy of the payment to Christopher.Lagan@tn.gov by email or by mail to:

Chris Lagan
Division of Solid Waste Management
William R. Snodgrass Tennessee Tower
312 Rosa Parks Avenue, 14th Floor
Nashville, TN 37243

If you or your attorney have any questions, please contact Mark Jordan by email at Mark.A.Jordan@tn.gov or by phone at 615-532-0675.

Sincerely,

Christopher Lagan

[Christopher Lagan \(Mar 10, 2022 14:12 CST\)](mailto:Christopher.Lagan@tn.gov)

Chris Lagan, P.G., CHMM
Compliance and Enforcement Manager

cc: Alan Newman, EPA Region 4, Atlanta, GA
Lisa Hughey, Director, DSWM
Craig Almanza, Deputy Director, Central Office Operations, DSWM
Rob Ashe, Deputy Director, Field Operations, DSWM
Beverly Philpot, Hazardous Waste Program Manager
Harry McCann, Chattanooga Environmental Field Office Manager, DSWM
Chris Lamb, Johnson City Environmental Field Office Manager, DSWM
Rick Whitson, Environmental Fellow, DSWM
Michael Miracle, Records Liaison, DSWM
Enforcement File

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:)	DIVISION OF SOLID WASTE
)	MANAGEMENT
WEST STAR AVIATION, LLC)	
)	
RESPONDENT)	CASE NO. HWM 21-0019
)	

DIRECTOR’S ORDER AND ASSESSMENT

NOW COMES Lisa A. Hughey, Director of the Tennessee Division of Solid Waste Management, and states:

PARTIES

I.

David Salyers, P.E., is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (Department) and is charged with the responsibility for administering and enforcing the Tennessee Hazardous Waste Management Act of 1977, Tennessee Code Annotated sections 68-212-101 through -121 (Act). Lisa A. Hughey is the duly appointed Director of the Division of Solid Waste Management (Division). She has received written delegation from the Commissioner to administer and enforce the Act.

II.

West Star Aviation, LLC. (West Star or Respondent) is a foreign corporation properly registered to conduct business in the State of Tennessee. Its agent for service of process is C T Corporation System, 300 Montvue Road, Knoxville, TN 37919-5546.

JURISDICTION

III.

When the Commissioner finds that provisions of the Acts are not being carried out, the Commissioner or his representative (Commissioner) is authorized to issue an order for correction to the responsible party. Tenn. Code Ann. §§ 68-212-111 and 68-211-112. Further, the Commissioner is authorized to assess damages and civil penalties against any person who violates any provision of the Acts or any rule, regulation, or standard adopted pursuant to the Acts. Tenn. Code Ann. §§ 68-212-114 and 68-211-112. Rules governing hazardous waste and used oil management have been promulgated. Tenn. Code Ann. § 68-212-107; Tenn. Comp. R. & Regs. 0400-12-01-.01 -.02 (Rules).

IV.

The Respondent is a “person” under the Act. Tenn. Code Ann. § 68-212-104(14).

V.

For the purpose of enforcing the Act or any rule or regulation authorized by the Act, or enforcing any requirement of an order issued by the Commissioner, the Commissioner is authorized to enter any place where wastes (which the Commissioner has reason to believe may be hazardous) are, may be, or may have been generated, stored, transported, treated, disposed of, or otherwise handled. Tenn. Code Ann. § 68-212-107. The Commissioner also has authority to inspect any samples of any waste, samples of any containers or labeling for such wastes, samples of ambient air, surface waters, and ground waters at the facility or site, as well as the authority to inspect and copy any records, reports, test results, or other information relating to the purposes of the Act.

FACTS

VI.

The Respondent conducts aircraft maintenance, repair, and exterior refinishing/painting at its facility (facility) located at 5900 Pinehurst Avenue in Chattanooga, Tennessee. The facility operates as a large quantity generator of hazardous waste, has an Environmental Protection Agency installation identification number of TNR000045021 and has notified the Division of the generation of seven hazardous waste streams. The facility consists of one building which houses a Preparation Booth and a Painting Booth with storage rooms between the two. A hazardous waste accumulation room is located adjacent to the Preparation Booth. The hazardous waste accumulation room contains the facility 90-day storage area and a hazardous waste tank system, which consists of a series of hazardous waste storage tanks that feed a wastewater evaporator. Wastewater from the Preparation Booth flows into a lined floor drain and into a lined collection sump. The wastewater is pumped from this collection sump into a 3,500-gallon storage tank (Tank B) where solids are allowed to settle out. Wastewater from Tank B then flows into a 5,500-gallon storage tank (Tank A) which feeds a 450-gallon wastewater evaporator. Solids from the collection sump, Tank B, and the wastewater evaporator are placed into 55-gallon drums and handled as hazardous waste.

VII.

The August 31, 2021, Compliance Evaluation Inspection

On August 31, 2021, Division personnel conducted a Compliance Evaluation Inspection (CEI), consisting of a facility walk-through of the office area, the Preparation Booth, Painting Booth, hazardous waste storage room, and a records review.

VIII.

During the walk-through of the hazardous waste accumulation room, the Division inspector observed three open 55-gallon drums of hazardous paint related waste. Facility personnel closed the drums during the CEI.

IX.

In the hazardous waste tank system area, the Division inspector observed that neither Tank A, Tank B nor the evaporator tank were labeled with the words 'Hazardous Waste' and were not labeled with an indication of the hazards of the contents. Facility personnel labeled all tanks during the CEI.

X.

In the hazardous waste tank system area, the Division inspector observed that the secondary containment floor was not lined.

XI.

In the hazardous waste tank system area, the Division inspector observed that the daily tank inspection log was incomplete. Facility personnel stated that daily tank inspections were conducted, but had not been recorded in the log.

XII.

During the records review portion of the CEI, the Division inspector observed the following:

- The facility could not provide signed copies from the designated facility for two hazardous waste manifests.
- The facility could not provide records of a Professional Engineer certification for the hazardous waste tank system.
- The facility had not obtained a permit for the treatment of hazardous waste in the wastewater evaporator.

XIII.

On October 6, 2021, the Division issued a Notice of Violation (NOV) to the Respondent for the Rules violations found during the CEI. The NOV cited the following violations:

1. Failure to close three drums of hazardous waste.
2. Failure to maintain signed return-to-generator copies of hazardous waste manifests.
3. Failure to label hazardous waste storage tanks.
4. Failure to provide a liner for secondary containment.
5. Failure to maintain records of daily tank inspections.
6. Failure to obtain a Professional Engineer certification for hazardous waste storage tanks.
7. Failure to obtain a permit for the treatment of hazardous waste.

The Respondent was instructed to submit documentation of the correction of all outstanding violations by November 15, 2021.

XIV.

On November 9, 2021, the Division sent a letter offering the Respondent the opportunity to schedule a Show Cause meeting to discuss the violations, the corrective actions taken, and any additional information and practices implemented to prevent a recurrence of the violations. The Show Cause Meeting was held virtually via Microsoft Teams on December 16, 2021. The Respondent did not present any additional information regarding measures taken to address the outstanding violations cited in the October 6, 2021, NOV. To date, those violations remain uncorrected.

XV.

During the course of the investigation, the Division incurred damages in the amount of \$1,950.00.

VIOLATIONS

XVI.

By failing to close containers of hazardous waste, the Respondent violated Rule 0400-12-01-.03(1)(h)1.(i)(IV)I

Rule 0400-12-01-.03(1)(h)1.(i)(IV)I. states:

(1) General

(h) Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:

(i) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following:

(IV) Management of containers.

I. A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

XVII.

By failing to maintain signed copies of hazardous waste manifests from the designated facility, the Respondent violated Rule 0400-12-01-.03(5)(a)1.

Rule 0400-12-01-.03(5)(a)1. states:

(5) Recordkeeping and Reporting

(a) Recordkeeping applicable to small and large quantity generators

1. A generator must keep a copy of each manifest signed in accordance with part (3)(d)1 of this rule for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

XVIII.

By failing to label hazardous waste storage tanks, the Respondent violated Rule 0400-12-01-.03(1)(h)1.(v)(II)I. and II.

Rule 0400-12-01-.03(1)(h)1.(v)(II)I. and II. state:

(1) General

- (h) Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:

(v) Labeling and marking of containers and tanks

- (II) Tanks. A large quantity generator accumulating hazardous waste in tanks must do the following:

- I. Mark or label its tanks with the words “Hazardous Waste”;
- II. Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste

characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704)

XIX.

By failing to have a liner for the secondary containment floor, the Respondent violated Rule 0400-12-01-.03(1)(h)1.(ii)(I), which references Rule 0400-12-01-.05(10)(d)4.(i).

Rule 12-01-.03(1)(h)1.(ii)(I) states:

(1) General

- (h) Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:

- (ii) Accumulation of hazardous waste in tanks.

- (I) If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of paragraph (10) of Rule 0400-12-01-.05, except part (10)(h)3 of Rule 0400-12-01-.05 (closure and post-closure care) and subparagraph (10)(k) of Rule 0400-12-01-.05 (waste analysis and trial tests), as well as the applicable

requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05.

Rule 0400-12-01-.05(10)(d)4.(i) states:

(10) Tank Systems

(d) Containment and Detection of Releases

4. Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank)

XX.

By failing to document daily tank inspections, the Respondent violated Rule 0400-12-01-.03(1)(h)1.(ii)(I), which references Rule 0400-12-01-.05(10)(f)2. and 7.

Rule 12-01-.03(1)(h)1.(ii)(I) states:

(1) General

(h) Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules 0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:

(ii) Accumulation of hazardous waste in tanks.

(I) If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of paragraph (10) of Rule 0400-12-01-.05, except part (10)(h)3 of Rule 0400-12-01-.05 (closure and post-closure care) and subparagraph (10)(k) of Rule 0400-12-01-.05 (waste

analysis and trial tests), as well as the applicable requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05.

Rule 0400-12-01-.05(10)(f)2. and 7. state:

(10) Tank Systems

(f) Inspections

2. Except as noted under part 3 of this subparagraph, the owner or operator must inspect at least once each operating day:
 - (i) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;
 - (ii) Above ground portions of the tank system, if any, to detect corrosion or release of waste; and
 - (iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).
7. The owner or operator must document in the operating record of the facility an inspection of those items in parts 1 and 2 of this subparagraph.

XXI.

By failing to have a Professional Engineer certification for the hazardous waste storage tank system, the Respondent violated Rule 0400-12-01-.03(1)(h)1.(ii)(I), which references Rule 0400-12-01-.05(10)(c)1.(i),(ii) and 7.

Rule 12-01-.03(1)(h)1.(ii)(I) states:

(1) General

- (h) Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules

0400-12-01-.05 through 0400-12-01-.07, and 0400-12-01-.09, including the notification requirements, provided that all of the following conditions for exemption are met

1. Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in parts 2 through 5 of this subparagraph. The following accumulation conditions also apply:
 - (ii) Accumulation of hazardous waste in tanks.
 - (I) If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of paragraph (10) of Rule 0400-12-01-.05, except part (10)(h)3 of Rule 0400-12-01-.05 (closure and post-closure care) and subparagraph (10)(k) of Rule 0400-12-01-.05 (waste analysis and trial tests), as well as the applicable requirements of paragraphs (27), (28), and (29) of Rule 0400-12-01-.05.

Rule 0400-12-01-.05(10)(c)1.(i),(ii) and 7. state:

(10) Tank Systems

(c) Design and Installation of New Tank Systems or Components

1. Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a qualified Professional Engineer in accordance with Rule 0400-12-01-.07(2)(a)10 attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include, at a minimum, the following information:
 - (i) Design standard(s) according to which the tank(s) and ancillary equipment is or will be constructed.
 - (ii) Hazardous characteristics of the waste(s) to be handled
7. The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of parts 2 through 6 of this subparagraph to attest that the tank

system was properly designed and installed and that repairs, pursuant to parts 2 and 4 of this subparagraph were performed. These written statements must also include the certification statement as required in Rule 0400-12-01-.07(2)(a)10.

XXII.

By failing to obtain a permit for treatment of hazardous wastes, the Respondent violated Rule 0400-12-01-.07(1)(b)2.

Rule 0400-12-01-.07(1)(b)2. states:

(1) General

(b) Scope/Applicability

2. A permit is required for the treatment, storage, and disposal of any “hazardous waste” as identified or listed in Rule 0400-12-01-.02. The terms “treatment”, “storage”, “disposal” and “hazardous waste” are defined in Rule 0400-12-01-.01(2)(a). Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to Rule 0400-12-01-.05(7)(f)) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under parts 7 and 8 of this subparagraph, or obtain an enforceable document in lieu of a post-closure permit, as provided under part 9 of this subparagraph. If a post-closure permit is required, the permit must address applicable Rule 0400-12-01-.06 Groundwater Monitoring, Unsaturated Zone Monitoring, Corrective Action, and Post-closure Care Requirements. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this paragraph.

XXIII.

By failing to store, containerize, label, or to provide information in accordance with the rules, regulations, or orders of the Commissioner, the Respondent has violated Tenn. Code Ann. § 68-212-105(4).

Tenn. Code Ann. § 68-212-105(4) provides:

It is unlawful to:

- (4) Store, containerize, label, transport, treat or dispose of hazardous waste, or fail to provide information in violation of the rules, regulations, or orders of the Commissioner or Board, or in such a manner as to create a public nuisance or a hazard to the public health.

ORDER AND ASSESSMENT

XXIV.

Pursuant to the authority vested by sections 68-212-111 and 68-212-117 of the Act, I, Lisa

A. Hughey, hereby issue the following Order and Assessment to the Respondent:

1. The Respondent is hereby assessed damages in the amount of \$1,950.00 be paid to the State on or before the 31st day after receipt of this Order.
2. The Respondent is hereby assessed a civil penalty in the amount of \$18,520.00 to be paid to the State on or before the 31st day after receipt of this Order.
3. Payment of the damages and civil penalty should reference Case No. **HWM 21-0019**, be made payable to “Treasurer, State of Tennessee” and sent to the Division of Fiscal Services – Consolidated Fee Section, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243.

RESERVATION OF RIGHTS

In issuing this Order and Assessment, the Director does not implicitly or expressly waive any provision of the Act or 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 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(s) may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-212-113 and -117. 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(s) received this Order and Assessment, or this Order and Assessment will become final.

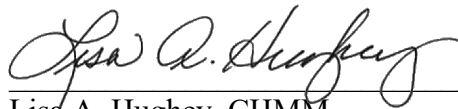
If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (“ALJ”) as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-212-113; Tenn. Code Ann. § 4-5-301 to -325 (the Uniform Administrative Procedures Act); Tenn. Comp. R. & Regs. 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 must be directed to the Commissioner of the 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. 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, Tennessee Department of Environment and Conservation, Snodgrass Tennessee Tower, 312 Rosa Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Christopher Lagan, State of Tennessee, Division of Solid and Hazardous Waste Management, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 14th Floor, Nashville, TN 37243. Attorneys should contact the undersigned counsel of record. **The case number, HWM21-0019, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Solid Waste Management, Tennessee Department of Environment and Conservation, on this 10th day of March, 2022.



Lisa A. Hughey, CHMM
Director, Division of Solid Waste Management
TN Department of Environment and Conservation

Reviewed by:



[Denard Mickens \(Mar 10, 2022 09:50 CST\)](#)

Denard Mickens

BPR #025033

Senior Associate General Counsel

Department of Environment & Conservation

312 Rosa L. Parks Avenue, 2nd Floor

Nashville, Tennessee 37243

PHONE: (615) 532-0143

EMAIL: Denard.Mickens@tn.gov