



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

April 12, 2023

Mr. Harry V. Empting, Jr. - Registered Agent
Ultra Tech Extrusions of Tennessee, Inc.
150 Commercial Lane
Rocky Top, TN 37769

CERTIFIED MAIL
7021 0950 0001 7916 8370
RETURN RECEIPT REQUESTED

RE: CASE NO. HWM22-0024

Mr. Empting:

Enclosed please find an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Solid Waste Management to Ultra Tech Extrusions of Tennessee, Inc. 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 \(Apr 11, 2023 14:50 CDT\)](#)
Chris Lagan, CHMM

Regulatory Compliance and Enforcement Manager

ENCLOSURE

cc: Alan Newman, EPA Region 4, Atlanta, GA
Lisa A. Hughey, Director, DSWM
Rick Whitson, Environmental Fellow, DSWM
Craig Almanza, Deputy Director of Central Operations, DSWM
Rob Ashe, Deputy Director of Field Operations, DSWM
Beverly Philpot, Hazardous Waste Program Manager, DSWM
Revendra Awasthi, Knoxville Environmental Field Office Manager, DSWM
Records.SWM@tn.gov

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

IN THE MATTER OF:)	DIVISION OF SOLID WASTE
)	MANAGEMENT
ULTRA TECH EXTRUSIONS)	
OF TENNESSEE, INC.)	
TNR 00-000-5611)	CASE NO. HWM 22-0024
)	
RESPONDENT)	

DIRECTORS 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 and the Tennessee Used Oil Collection Act of 1993, Tennessee Code Annotated sections 68-211-1001 through -1019 (Acts). 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 Acts.

II.

Ultra Tech Extrusions of Tennessee, Inc., (Ultra Tech or Respondent) is a domestic corporation properly registered to conduct business in the State of Tennessee. Its agent for

service of process is Harry V. Empting, Jr., 150 Commercial Lane, Lake City, Tennessee 37769-2319.

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 68-211-1012. 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 under the Acts. Tenn. Code Ann. §§ 68-212-114 and 68-211-1012. 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 Acts 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(b). 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 Acts. Tenn. Code Ann. § 68-212-107(b).

FACTS

VI.

The Respondent manufactures edging for office furniture using a wet-printing process at its facility (facility) located at 150 Commercial Lane, Rocky Top, Tennessee 37769. The facility operates as a small quantity generator of hazardous waste, a small quantity handler of universal waste, and a used oil generator. The facility has an Environmental Protection Agency installation identification number of TNR 00-000-5611 and has notified the Division of the generation of one hazardous waste stream from the cleaning of application rollers.

VII.

The September 7, 2022, Compliance Evaluation Inspection

On September 7, 2022, Division personnel conducted a Compliance Evaluation Inspection (CEI), consisting of a facility walk-through of areas related to the generation and management of hazardous waste, universal waste and used oil, and a records review. Division personnel documented their observations with four photographs from various areas of the facility.

VIII.

In the production area of the facility, Division personnel observed that waste solvent from the cleaning of printing application rollers (WS #1) was being collected for recovery in an on-site distillation unit. Facility personnel stated that the waste from the distillation process was

disposed of as general facility waste. The Respondent had not conducted hazardous waste determination on the distillation waste.

IX.

In the central accumulation area (CAA), the Division inspector observed two 55-gallon drums of WS #1 that were not labeled with the words ‘Hazardous Waste’ and were not marked with an indication of the hazards of the contents. The Division inspector additionally observed that the Respondent had failed to post emergency contacts and equipment locations in the CAA.

X.

In the production managers office, the Division inspector observed one small container of universal waste lamps that was not labeled appropriately.

XI.

During the records review, the Division inspector observed that the training of personnel who handle hazardous waste had not been conducted, facility personnel had not conducted weekly inspections of the CAA, and the facility did not have documentation of arrangements with local emergency response agencies.

XII.

On September 15, 2022 the Division sent a Notice of Violation (NOV) to the Respondent which documented the findings of the September 7, 2022, CEI. The Respondent was instructed to immediately initiate actions to correct the outstanding violations.

XIII.

The October 25, 2022, Hazardous Waste Follow-up Inspection

On October 25, 2022 the Division conducted a follow-up inspection at the facility. The Division inspector observed that all violations from the September 7, 2022, CEI had been

corrected. These findings were documented in a letter from the Division to the Respondent on October 28, 2022.

XIV.

On October 31, 2022, 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 on November 10, 2022, via Microsoft TEAMS. The Respondent presented information regarding training and changes to work practices that would prevent a recurrence of the violations. Additionally, the Respondent indicated that a digital printing technology, which would reduce the amount of hazardous waste generated, was being considered as a replacement for the existing wet-printing process.

XV.

During the course of the investigation of the Respondent's facility, the Division has incurred damages in the amount of **\$774.38**.

VIOLATIONS

XVI.

The Respondent failed to conduct hazardous waste determinations, as required by Rule 0400-12-01-.03(1)(b), which states in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General:

(b) Hazardous Waste Determination and recordkeeping

A person who generates a solid waste, as defined in subparagraph (1)(b) of Rule 0400-12-01-.02, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to

applicable hazardous waste management regulations. A hazardous waste determination is made using the following steps:

1. The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the hazardous waste management regulatory classification of the waste may change.
2. A person must determine whether the solid waste is excluded from regulation under subparagraph (1)(d) of Rule 0400-12-01-.02.
3. If the waste is not excluded under subparagraph (1)(d) of Rule 0400-12-01-.02, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under paragraph (4) of Rule 0400-12-01-.02. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the EPA Administrator that the waste from this particular site or operation is not a hazardous waste.
4. The person then must determine whether the waste exhibits one or more hazardous characteristics as identified in paragraph (3) of Rule 0400-12-01-.02 by following the procedures in subpart (i) or (ii) of this part, or a combination of both.
 - (i) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in paragraph (3) of Rule 0400-12-01-.02, or an equivalent test method approved by the EPA Administrator under 40 CFR 260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a

characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at subparagraph (2)(a) of Rule 0400-12-01-.01.

(ii) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods set forth in paragraph (3) of Rule 0400-12-01-.02 or according to an equivalent method approved by the EPA Administrator under 40 CFR 260.21 and in accordance with the following:

(I) Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at subparagraph (2)(a) of Rule 0400-12-01-.01.

(II) Where a test method is specified in paragraph (3) of Rule 0400-12-01-.02, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

5. If the waste is determined to be hazardous, the generator must refer to Rules 0400-12-01-.02, 0400-12-01-.05, 0400-12-01-.06, 0400-12-01-.09, 0400-12-01-.10, and 0400-12-01-.12 for possible exclusions or restrictions pertaining to management of the specific waste.

6. Recordkeeping for small and large quantity generators. A small or large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by subparagraph (1)(c) of Rule 0400-12-01-.02. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described in parts 3 and 4 of this subparagraph. The records must include, but are not limited to, the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in accordance with this subparagraph; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at subpart (4)(i) of this subparagraph. The periods of record retention referred to in this part are extended

automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Commissioner.

7. Identifying hazardous waste numbers for small and large quantity generators. If the waste is determined to be hazardous, small quantity generators and large quantity generators must identify all applicable hazardous waste numbers (EPA hazardous waste codes) in paragraphs (3) and (4) of Rule 0400-12-01-.02. Prior to shipping the waste off site, the generator also must mark its containers with all applicable hazardous waste numbers (EPA hazardous waste codes) according to subparagraph (4)(c) of this rule.

XVII.

The Respondent failed to label two 55-gallon containers in the hazardous waste central accumulation area with the words ‘Hazardous Waste’, as required by Rule 0400-12-01-.03(1)(g)2.(vi)(D)I which is a condition for exemption from the requirement to obtain a permit for the treatment, storage, and disposal of hazardous waste. Rule 0400-12-01-.03(1)(g)2.(vi)(D)I which incorporates Rule 0400-12-01-.07 states, in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General

- (g) Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small 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 the conditions for exemption listed in this subparagraph are met:

2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:
 - (vi) Labeling and marking of containers and tanks.

(I) Containers. A small quantity generator must mark or label its containers with the following:

I. The words “Hazardous Waste”;

0400-12-01-.07 PERMITTING OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

(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. . . .
4. The following persons are among those who are not required to obtain a permit under the Act and this rule:
 - (i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

XVIII.

The Respondent failed to mark two 55-gallon containers in the hazardous waste central accumulation area with an indication of the hazards of the contents, as required by Rule 0400-12-01-.03(1)(g)2.(vi)(I)II which is a condition for exemption from the requirement to obtain a permit for the treatment, storage, and disposal of hazardous waste. Rule 0400-12-01-.03(1)(g)2.(vi)(I)II which incorporates Rule 0400-12-01-.07 states, in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General

(g) Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small 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 the conditions for exemption listed in this subparagraph are met:

2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

(vi) Labeling and marking of containers and tanks.

(I) Containers. A small quantity generator must mark or label its containers with the following:

II. 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); and

0400-12-01-.07 PERMITTING OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

(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. . . .
4. The following persons are among those who are not required to obtain a permit under the Act and this rule:
 - (i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

XIX.

The Respondent failed to post emergency contacts and equipment in the hazardous waste central accumulation area as required by Rule 0400-12-01-.03(1)(g)2.(ix)(II) which is a condition for exemption from the requirement to obtain a permit for the treatment, storage, and disposal of hazardous waste. Rule 0400-12-01-.03(1)(g)2.(ix)(II) which incorporates Rule 0400-12-01-.07 states, in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General

- (g) Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small 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 the conditions for exemption listed in this subparagraph are met:

- 2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

- (ix) Emergency procedures. The small quantity generator must comply with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

- (II) The small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

- I. The name and emergency telephone number of the emergency coordinator;
- II. Location of fire extinguishers and spill control material, and, if present, fire alarm; and

- III. The telephone number of the fire department, unless the facility has a direct alarm.

0400-12-01-.07 PERMITTING OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

(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. . . .
4. The following persons are among those who are not required to obtain a permit under the Act and this rule:
 - (i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

XX.

The Respondent failed to label one container of universal waste lamps as required by Rule 0400-12-01-.12(2)(e)5., which state in pertinent part:

(2) Standards for Small Quantity Handlers of Universal Waste

(e) Labeling/Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

5. Each lamp or a container or package in which such lamps are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s)” or “Universal Waste – Bulb(s)” or “Waste Bulb(s)” or “Used Bulb(s)”. Containers or packages destined for out-of-state shipment shall use the term “Lamps” in lieu of “Bulbs.”

XXI.

The Respondent failed to provide hazardous waste training, as required by Rule 0400-12-01-.03(1)(g)2.(ix)(III) which, is a condition for exemption from the requirement to obtain a permit for the treatment, storage, and disposal of hazardous waste. Rule 0400-12-01-.03(1)(g)2.(ix)(III) which incorporates Rule 0400-12-01-.07 states, in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General

- (g) Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small 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 the conditions for exemption listed in this subparagraph are met:

- 2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

- (ix) Emergency procedures. The small quantity generator must comply with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

- (III) The small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

0400-12-01-.07 PERMITTING OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

(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. . . .
4. The following persons are among those who are not required to obtain a permit under the Act and this rule:
 - (i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

XXII.

The Respondent failed to conduct weekly hazardous waste accumulation area inspections as required by Rule 0400-12-01-.03(1)(g)2.(ii)(IV), which is a condition for exemption from the requirement to obtain a permit for the treatment, storage, and disposal of hazardous waste. Rule 0400-12-01-.03(1)(g)2.(ii)(IV) which incorporates Rule 0400-12-01-.07 states, in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General

- (g) Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small 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 the conditions for exemption listed in this subparagraph are met:

2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

(ii) Accumulation of hazardous waste in containers

(IV) Inspections.

- I. At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See item (I) of this subpart for remedial action required if deterioration or leaks are detected.
- II. The small quantity generator must record inspections required by subitem I of this item in an inspection log or summary. The small quantity generator must keep these records for at least three years from the date of the inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

0400-12-01-.07 PERMITTING OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

(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. . . .
4. The following persons are among those who are not required to obtain a permit under the Act and this rule:
 - (i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

XXIII.

The Respondent failed to document arrangements with the local fire department and other agencies as required by Rule 0400-12-01-.03(1)(g)2.(viii)(VI)(II), which is a condition for

exemption from the requirement to obtain a permit for the treatment, storage, and disposal of hazardous waste. Rule 0400-12-01-.03(1)(g)2.(viii)(VI)(II), which incorporates Rule 0400-12-01-.07 states, in pertinent part:

0400-12-01-.03 NOTIFICATION REQUIREMENTS AND STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

(1) General

- (g) Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small 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 the conditions for exemption listed in this subparagraph are met:

2. Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in parts 3, 4, and 5 of this subparagraph. The following accumulation conditions also apply:

(viii) Preparedness and prevention.

(VI) Arrangements with local authorities.

- II. A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

0400-12-01-.07 PERMITTING OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

(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. . . .
4. The following persons are among those who are not required to obtain a permit under the Act and this rule:
 - (i) Generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03;

XXIV.

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 Tennessee Code Annotated. section 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

XXV.

Under the authority vested by sections 68-212-111 and 68-212-114 of the Acts, I, Lisa A. Hughey, issue the following Order and Assessment to the Respondent:

1. The Respondent is assessed DAMAGES in the amount of **\$774.38** to be paid to the State on or before the 31st day after receipt of this Order and Assessment.

2. The Respondent is assessed a CIVIL PENALTY in the amount of **\$2,170.00** to be paid to the State on or before the 31st day after receipt of this Order and Assessment.
3. Payment of the DAMAGES AND CIVIL PENALTY (totaling **\$2,944.38**) should reference Case No. HWM 22-0024 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 Acts or their supporting regulations. The Director also does not implicitly or expressly waive the authority to assess costs, civil penalties, or damages incurred by the State against the Respondent(s). The Department expressly reserves all rights it has at law and in equity to order further corrective action and to assess civil penalties or damages. The Department also reserves all rights at law and equity 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 114. 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.

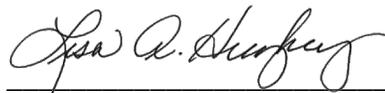
If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-212-113; Tenn. Code Ann. § 4-5-301 to -325 (the Uniform Administrative Procedures Act); Tenn. Comp. R. & Regs. 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, HWM 22-0024, 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 12th day of April, 2023.



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

Reviewed by:



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