



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243

Certified Article Number

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SENDER'S RECORD

Mike Williams
815 S Main Street
Columbia, Tennessee 38401

RE: Tennessee Distilling Group LLC
Facility Id. 60-0333
Case No. APC22-0080

Dear Mr. Williams:

Enclosed, please find an Order and Assessment of Civil Penalty issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Department of Environment and Conservation. Please read it carefully and pay special attention to the Notice of Rights section.

If you have any questions regarding this Order and Assessment of Civil Penalty, please contact Kevin McLain at (615) 532-6819 or kevin.mclain@tn.gov. For all other questions, please contact the Division of Air Pollution Control at (615) 532-0554 or air.pollution.control@tn.gov.

Sincerely,

Kevin McLain
Section Manager, Enforcement
Division of Air Pollution Control

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Enclosure

**STATE OF TENNESSEE
AIR POLLUTION CONTROL BOARD**

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION CONTROL
)	
)	
TENNESSEE DISTILLING GROUP LLC,)	
)	
)	
RESPONDENT.)	CASE NO. APC22-0080

**TECHNICAL SECRETARY’S ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board (“Board”) and Director of the Division of Air Pollution Control (“Division”), Department of Environment and Conservation (“Department”).

II.

Tennessee Distilling Group LLC (“Respondent”) is a domestic limited liability company authorized to do business in the State of Tennessee. The Respondent’s facility address is 1929 Ridgecrest Drive, Columbia, Tennessee 38401. The Respondent’s registered agent for service of process is Mike Williams, 815 S Main Street, Columbia, Tennessee 38401-3307.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 (“Act”), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, (“Rules”). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). The Respondent operates an air contaminant source.

FACTS

VII.

On April 17, 2020, the Technical Secretary issued Conditional Major Source operating permit number 475435 (“Permit 475435”), (facility 60-0333), to the Respondent for an alcohol distillery.

VIII.

Condition G21 of Permit 475435 states, in pertinent part:

The maximum rate of all grains used for this facility shall not exceed 457,800 bushels (12,800 tons) per calendar year

IX.

Condition G22 of Permit 475435 states, in pertinent part:

The maximum production rate for this source (facility) shall not exceed 2.4 million proof gallons of beverage alcohol per calendar year

X.

On February 4, 2022, the Respondent submitted a construction permit application, dated February 3, 2022, to increase the permitted limit of grain usage to 1,564,300 bushels (43,800 tons) per calendar year and to increase the permitted limit of beverage alcohol to 8.2 million proof gallons per calendar year.

XI.

On March 28, 2022, the Annual Conditional Major Report (“ACMR”) for the time period covering January through December 2021 was received by the Division. Upon review of the ACMR, the Division discovered that the Respondent exceeded the permitted limit of 457,800 bushels (12,800 tons) of grain used per calendar year by using 490,488 bushels (13,734 tons) of grain in 2021 and that the Respondent also exceeded the permitted limit of 2.4 million proof gallons of beverage alcohol produced per calendar year by producing 2,538,400 gallons of beverage alcohol in 2021.

XII.

On May 2, 2022, the Division issued a Notice of Violation to the Respondent for exceeding the yearly permitted levels of bushels of grains used and beverage alcohol produced. On this same date, the Division received an operating permit application, dated April 22, 2022, from the Respondent to increase the permitted limits of grain used per calendar year and the permitted limits of beverage alcohol produced per calendar year.

XIII.

On June 29, 2022, the Technical Secretary issued Conditional Major Source combined construction and operating permit number 479988 (“Permit 479988”) to the Respondent. Permit 479988 was issued to increase the permitted levels of grain used per calendar year and the permitted levels of beverage alcohol produced per calendar year.

VIOLATIONS

XIV.

By failing to comply with Conditions G21 and G22 of Permit 475435, the Respondent violated Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act

ORDER AND ASSESSMENT OF CIVIL PENALTY

XV.

The Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Division of Fiscal Services - Consolidated Fees Section
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the thirty-first day after receipt of this Order and Assessment of Civil Penalty. The case number, APC22-0080, should be clearly written on all correspondence.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules 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.

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

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, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -325; Tenn. Comp. R. & Regs. 1360-04-01. 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 (*e.g.*, 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.

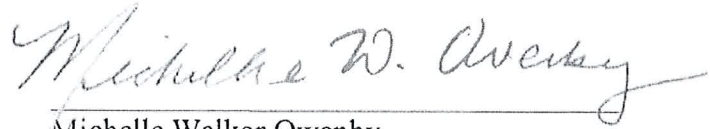
At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The Administrative Judge, on behalf of the Board, has 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 Administrative Judge and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

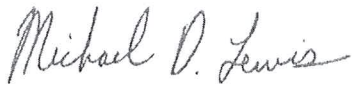
Attorneys should contact the undersigned counsel of record. The case number, APC22-0080, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on November 8, 2022.



Michelle Walker Owenby
Technical Secretary
Air Pollution Control Board

Reviewed by:



Michael D. Lewis
BPR # 033408
Associate Counsel
Department of Environment & Conservation
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Nashville, Tennessee 37243
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