



**State of Tennessee**  
**Department of State**

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**May 8, 2025**

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**RE: TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION V.  
COMPOSITE SOLUTIONS, LLC, APD Case No. 04.04-245543J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division  
Tennessee Department of State

Enclosure(s)

**BEFORE THE TENNESSEE BOARD OF UNDERGROUND STORAGE TANKS  
AND SOLID WASTE DISPOSAL CONTROL**

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
ENVIRONMENT AND  
CONSERVATION,  
*Petitioner,***

**APD Case No. 04.04-245543J**

**v.**

**COMPOSITE SOLUTIONS, LLC,  
*Respondent.***

**INITIAL ORDER**

This matter is pending before Administrative Judge Richard M. Murrell.<sup>1</sup> The matter concerns a Notice of Hearing and Charges filed by the Petitioner, the Tennessee Department of Environment and Conservation (Department), representing the Tennessee Underground Storage Tanks & Solid Waste Disposal Control Board (Board), Division of Solid Waste Management (Division), against the Respondent, Composite Solutions, LLC.

The Department seeks civil penalties for the Respondent's violations of the Tennessee Hazardous Waste Management Act of 1977 ("Act"), Tennessee Code Annotated sections 68-212-101 through -121, and implementing regulations. The Department issued the Director's Order and Assessment, HWM24-0006 (Order), related to the violations on August 27, 2024. The violations specified include failure to submit the 2022 Annual Report as required by Rule 0400-12-01-.03(2)(d)1.ii, failure to have a facility hazardous waste reduction plan, as required by Rule 0400-12-01-.03(6)(a)1, failure to make a hazardous waste determination on all waste streams at the facility, as required by Rule 0400-12-01-.03(1)(b), and failure to maintain documentation of

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<sup>1</sup> The Administrative Procedures Division of the Tennessee Secretary of State's Office has assigned Judge Murrell to sit on behalf of the Commissioner of the Department of Environment and Conservation. He is not an employee of the Department of Environment and Conservation.

hazardous waste determinations on all hazardous waste streams at the facility, as required by Rule 0400-12-01-.03(1)(b)6. Each of these violations also violates TENNESSEE CODE ANN. § 68-212-105(4).

The Department filed a Motion for Summary Judgment (Motion) on the violations, along with a Statement of Undisputed Material Facts, offering the affidavits of Cody Munday and Michael Finch in support. The Respondent did not file a response to the Motion, objections to the undisputed material facts, or any affidavits or documentation contradicting the proof submitted by the Department.<sup>2</sup>

Upon consideration of the Department's Motion, the applicable law, and the entire record in this matter, it is determined that no material facts are in dispute regarding the violations. The Department is entitled to judgment as a matter of law for the violations. Accordingly, the Department's Motion for Summary Judgment is **GRANTED**, and the scheduled hearing is **CANCELED**.

#### **SUMMARY JUDGMENT STANDARD**

A trial court may grant summary judgment when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits . . . show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.”<sup>3</sup> The party seeking summary judgment has the burden of persuading the court that its motion satisfies the requirements of Tennessee Rule of Civil Procedure 56.04.<sup>4</sup> When considering the

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<sup>2</sup> The undersigned issued an order requiring the Respondent to file any response no later than 4:00 PM Central Time on May 5, 2025. The Respondent did not attend an earlier pre-hearing conference nor participate in any meaningful manner in this matter.

<sup>3</sup> TENN. R. CIV. P. 56.04.

<sup>4</sup> See *Rye v. Women's Care Ctr. of Memphis*, 477 S.W.3d 235, 250-52 (Tenn. 2015).

appropriateness of summary judgment, a court must view the evidence in the light most favorable to the non-moving party; all reasonable inferences are drawn in favor of the non-moving party as well.<sup>5</sup> To defeat a summary judgment motion, the “nonmoving party must demonstrate the existence of specific facts in the record which could lead a rational trier of fact to find in favor of the nonmoving party.”<sup>6</sup> When a court determines that no genuine issue of material fact exists and grants summary judgment under Tennessee Rule of Civil Procedure 56, the case has been decided on the merits.<sup>7</sup>

### **UNDISPUTED MATERIAL FACTS**

1. The Respondent's facility (facility) is located at 225 Alexander Drive, Woodbury, TN.
2. Division personnel conducted a compliance evaluation inspection at the facility on January 31, 2024.
3. At the time of the January 31, 2024, inspection, the Respondent did not qualify for a permit exemption and continued to operate a hazardous waste facility without a permit for the treatment, storage, and disposal of hazardous waste.
4. The Respondent also failed to submit a 2022 Annual Report with correct and updated information as of the inspection date.
5. The Respondent also failed to have a hazardous waste reduction plan for the facility as of the inspection date.
6. The Respondent failed to make a hazardous waste determination on all waste streams at the facility as of the inspection date.

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<sup>5</sup> *Huggins v. McKee*, 500 S.W.3d 360, 365 (Tenn. Ct. App. 2016).

<sup>6</sup> *Rye*, 477 S.W.3d at 265.

<sup>7</sup> *Id.* at 262.

7. The Respondent failed to maintain documentation of hazardous waste determinations on all waste streams at the facility as of the inspection date.

8. On March 1, 2024, the Division sent to the Respondent a compliance evaluation inspection report detailing the observed violations. The correspondence included the actions necessary to correct the violations.

9. A follow-up inspection of the facility was conducted on March 26, 2024.

10. As of the follow-up inspection date, the Respondent did not have a hazardous waste reduction plan for the facility.

11. A follow-up report was sent to the Respondent on April 18, 2024.

12. As of April 21, 2025, the Respondent had not submitted to the Division a hazardous waste reduction plan for the facility.

13. The Director's Order and Assessment, HWM24-0006, against the Respondent was issued on August 27, 2024.

14. A total civil penalty of \$5,250.00 was calculated by applying the Hazardous Waste Program Enforcement Manual to each violation and crediting a 30% reduction for a good-faith factor.

15. Similarly, a total of \$1,558.34 in costs was assessed. Those costs were calculated using the Division's Damages Worksheet.

16. The Respondent requested an appeal of the Order by a letter received by the Division on October 4, 2024.

#### **APPLICABLE LAW**

The Tennessee Hazardous Waste Management Act makes it unlawful to “[s]tore, 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.”<sup>8</sup> The Act’s purpose, in part, is to “[p]rovide for safe storage... and disposal of hazardous wastes” and to “[p]romote efficient and economical hazardous waste management systems, the reuse or recycling of hazardous waste, and efforts to minimize the amounts of hazardous waste generated.”<sup>9</sup>

Rules governing hazardous waste management have been promulgated and are effective as Tenn. Comp. R. & Regs. Chapter 0400-12-01.<sup>10</sup> These Rules create enforceable standards with various requirements, including the following:

1. Qualifying for a permit exemption and operating a hazardous waste facility without a permit for the treatment, storage, and disposal of hazardous waste.<sup>11</sup>
2. Generators are allowed to accumulate hazardous waste on-site without a permit only if they comply with “all of the conditions for exemption provided in subparagraphs (1)(e), (f), (g), and (h) of Rule 0400-12-01-.03.”<sup>12</sup>
3. Submitting annual reports.<sup>13</sup>
4. Having a facility hazardous waste reduction plan.<sup>14</sup>
5. Making a hazardous waste determination on all waste streams at the facility.<sup>15</sup>
6. Maintaining documentation of hazardous waste determinations on all hazardous waste streams at the facility.<sup>16</sup>

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<sup>8</sup> TENN. CODE ANN. §68-212-105(4).

<sup>9</sup> TENN. CODE ANN. §68-212-102(1) and (4).

<sup>10</sup> TENN. CODE ANN. §68-212-107(d)

<sup>11</sup> TENN. COMP. R. & REGS. 0400-12-01-.07(1)(b)4.(i).

<sup>12</sup> See footnote 11.

<sup>13</sup> TENN. COMP. R. & REGS. 0400-12-01-.03(2)(d)1.ii.

<sup>14</sup> TENN. COMP. R. & REGS. 0400-12-01-.03(6)(a)1.

<sup>15</sup> TENN. COMP. R. & REGS. 0400-12-01-.03(1)(b).

<sup>16</sup> TENN. COMP. R. & REGS. 0400-12-01-.03(1)(b)6.

The Division is authorized to assess civil penalties and damages in the form of costs for violation of or failure to comply with the Act through orders issued by the Commissioner of the Department or his designee.<sup>17</sup>

### **ANALYSIS**

The facts of the case as found are undisputed. The Respondent violated the Act and the regulations in the manner described in the inspection reports. The Respondent did not take the corrective actions needed to comply, even as late as April 21, 2025. Further, the Division provided the appropriate notices to the Respondent prior to the issuance of the Order. The Respondent has taken no steps to meaningfully participate in the appeal process since submitting the appeal letter to the Division on October 4, 2024.<sup>18</sup>

Accordingly, the undisputed material facts demonstrate that the Department is entitled to summary judgment because it proved that the Respondent is responsible for the violations enumerated.

### **CONCLUSIONS OF LAW**

1. The Respondent did not qualify for a permit exemption and continued to operate a hazardous waste facility without a permit for the treatment, storage, and disposal of hazardous waste.
2. The Respondent failed to submit a 2022 Annual Report with correct and updated information as of the inspection date.
3. The Respondent failed to have a hazardous waste reduction plan for the facility.

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<sup>17</sup> TENN. CODE ANN. §§ 68-212-111 and -114(b).

<sup>18</sup> Though not raised by the Department, the appeal submitted by the Respondent appears to have been beyond the 30-day period within which an appeal must be submitted.

4. The Respondent failed to make a hazardous waste determination of all waste streams at the facility.

5. The Respondent failed to maintain documentation of hazardous waste determinations on all hazardous waste streams at the facility.

6. The Department's Motion for Summary Judgment is **GRANTED in its entirety**.

7. Taking into consideration the factors listed in the Hazardous Waste Program Enforcement Manual and Damages Worksheet, the Respondent is **ASSESSED** a total civil penalty of \$5,250.00 and **ASSESSED** an investigative cost of \$1,558.34.

8. Further, the Respondent is **ASSESSED** all hearing costs not to exceed \$2,500. The Department shall file and serve the Respondent with an itemized bill of costs for this matter.

This decision is based on the policy reasons of protecting the safety and property of Tennessee citizens and ensuring individuals adhere to Tennessee's laws and regulations relating to hazardous waste.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **8th day of May 2025**.



**RICHARD M. MURRELL**  
**ADMINISTRATIVE JUDGE**  
**ADMINISTRATIVE PROCEDURES DIVISION**  
**OFFICE OF THE SECRETARY OF STATE**

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the **8th day of May 2025**.

**NOTICE OF APPEAL PROCEDURES**

**REVIEW OF INITIAL ORDER**

The Administrative Judge's decision in your case **BEFORE THE TENNESSEE BOARD OF UNDERGROUND STORAGE TANKS AND SOLID WASTE DISPOSAL CONTROL (the Board)**, called an Initial Order, was entered on **May 8, 2025**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **May 23, 2025**. A new 30 day period for the filing of an appeal to the Board (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling of a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued. Filing instructions are included at the end of the document.<sup>1</sup>

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied you may file an appeal, which must be **received** by APD no later than 30 days after the date of denial of the Petition. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order and/or Other Earlier Orders:** You may appeal the decision, together with any earlier order issued by the Administrative Judge you specifically choose to appeal, to the Board, by filing an Appeal of the Initial Order with APD. An Appeal of the Initial Order should include your name and the above APD case number and state that you want to appeal the decision to the Board, specifying any earlier order(s) issued by the Administrative Judge that you also want to appeal, along with the specific reasons for your appeal. APD must **receive** your written Appeal no later than 30 days after the entry of the Initial Order, which is no later than **June 9, 2025**.<sup>2</sup> The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The Board Decides to Review the Initial Order:** In addition, the Board may give written notice of its intent to review the Initial Order within the longer of 30 days or 7 days after the first board meeting to occur after entry of the Initial Order. No later than 7 days after the entry of an Initial Order, TDEC shall file, and serve, a Notice of Filing containing the date of the next Board meeting. No later than 7 days after the next Board Meeting, TDEC shall file, and serve, a Notice of Filing setting forth what action, if any, the Board took with respect to the Initial Order.

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<sup>1</sup> See TENN. CODE ANN. §§ 68-201-108 (Air Pollution Control Board); 68-211-113, 68-212-113, 68-212-215, 68-215-115, 68-215-119 (Underground Storage Tanks and Solid Waste Disposal Control Board); TENN. CODE ANN. §§ 60-1-401, 69-3-110, 68-221-714 (Board of Water Quality, Oil & Gas).

<sup>2</sup> The deadline to file an appeal of the initial order (15 versus 30 days) in cases brought under the Tennessee Water Quality Control Act of 1977, TENN. CODE ANN. § 69-3-101, et seq., is an issue currently under review in a case before the Tennessee Supreme Court. *Jamesway Construction, Inc. v. David Salyers, P.E.*, No. M2023-01704-SC-R11-CV.

**NOTICE OF APPEAL PROCEDURES**

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the Board renders a Final Order affirming, modifying, remanding, or vacating the administrative judge's Initial Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

**STAY**

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be **received** by APD within 7 days of the date of entry of the Initial Order, which is no later than **May 15, 2025**. See TENN. CODE ANN. § 4-5-316. A reviewing court also may order a stay of the Final Order upon appropriate terms. See TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

**REVIEW OF A FINAL ORDER**

When an Initial Order becomes a Final Order, a person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," within 60 days of the date the Initial Order becomes a Final Order. See TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. See TENN. CODE ANN. § 4-5-317.

**FILING**

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: [APD.filings@tnsos.gov](mailto:APD.filings@tnsos.gov)

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State  
Administrative Procedures Division  
William R. Snodgrass Tower  
312 Rosa L. Parks Avenue  
Nashville, TN 37243-1102