



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204  
(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

**Eric J. Holcomb**  
Governor

**Brian C. Rockensuess**  
Commissioner

June 6, 2024

**Via Certified Mail: # 7017 2400 0000 0747 0744**

**Via Certified Mail: # 7017 2400 0000 0747 0751**

Vikram Shah, President  
Tri Pac, Inc.  
3333 North Kenmore  
South Bend, IN 46628

Paras Shah, Registered Agent  
Tri Pac, Inc.  
50988 Mercury Drive  
Granger, IN 46530  
[para.shah@tri-pac.us](mailto:para.shah@tri-pac.us)

Dear Mr. Shah:

Re: Notice of Violation and Proposed Agreed Order  
Tri Pac, Inc.  
Case No. 2023-29906-H  
EPA ID No. INR000145102  
South Bend, St. Joseph County

**Qualified offer of settlement: inadmissible per Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.**

IDEM conducted an investigation of the property located at 3333 North Kenmore, South Bend, Indiana with EPA ID# INR000145102 and has made a preliminary determination that violations of environmental management rules exist. Per IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation. A portion of the civil penalty may be offset by performing an approved Supplemental Environmental Project (SEP). Typical SEPs have included pollution prevention, pollution control, and environmental restoration projects. A copy of IDEM's SEP policy may be obtained from this office or at IDEM's website at [www.IN.gov/idem](http://www.IN.gov/idem).

The individual signing the enclosed Agreed Order should be fully authorized to execute the document and legally bind the parties. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.



IDEM is not required to extend the offer of entry into an Agreed Order for more than 60 days. You may enter into an Agreed Order without admitting that the violations occurred. Additionally, to encourage a timely agreement, IDEM may offer a one time twenty percent reduction (20%) to the Civil Penalty for 60 days after receipt of this Notice of Violation.

If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws, rules, and/or permit, including payment of a civil penalty. Please contact me at (317) 941-4551 or via email at [LKroenin@idem.IN.gov](mailto:LKroenin@idem.IN.gov) if you have any questions or if you wish to request a settlement conference.

Sincerely,



Lucas Kroening, Case Manager  
Land Enforcement Section  
Compliance Branch  
Office of Land Quality

Enclosures

cc: St. Joseph County Health Department  
Cathy Csatari, NRO Hazardous Waste Compliance, [CCSATARI@idem.IN.gov](mailto:CCSATARI@idem.IN.gov)  
Jim Weingart, Director, NRO  
IDEM Virtual Cabinet



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

**Eric J. Holcomb**  
Governor

**Brian C. Rockensuess**  
Commissioner

## **NOTICE OF VIOLATION**

Vikram Shah, President  
Tri Pac, Inc.  
3333 North Kenmore  
South Bend, IN 46628

Paras Shah, Registered Agent  
Tri Pac, Inc.  
50988 Mercury Drive  
Granger, IN 46530

Case No. 2023-29906-H

Pursuant to Indiana Code (“IC”) 13-30-3-3, the Indiana Department of Environmental Management (“IDEM”) issues this Notice of Violation. Based on an investigation including an inspection on July 26, 2023, conducted by a representative of IDEM, record reviews of submissions from Respondent received on September 18, October 17, and November 3, 2023, and correspondence on November 13 and December 7, 2023, from Respondent, and a record review conducted on February 19, 2024, of Inserv, Inc., EPA ID No. IND984872846. The violations are based on the following:

1. Respondent is Tri Pac, Inc., which operates the facility, with EPA ID No. INR000145102, located at 3333 North Kenmore, in South Bend, St. Joseph County, Indiana (“Site”).
2. 329 Indiana Administrative Code (“IAC”) 3.1 incorporates certain federal hazardous waste management requirements found in 40 Code of Federal Regulations (“CFR”) Parts 260 through 270 and Part 273, including those identified below.
3. Pursuant to 329 IAC 3.1-1-10, every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of its hazardous waste activity on the approved forms.

As noted during the investigation, Respondent failed to notify the Commissioner of the facility’s large quantity generator activities. Specifically, Respondent operated as a large quantity generator of hazardous waste for several months of 2023 without proper notification.

Respondent notified as a Small Quantity Generator on July 27, 2023. Submittals by the facility received by IDEM on October 5 and November 3, 2023, show Respondent operated as a Large Quantity Generator for several months in 2023 prior to notifying as Large Quantity Generator (“LQG”) on November 30, 2023.

4. Pursuant to 40 CFR 262.13, a generator must determine its generator category. A generator’s category is based on the amount of hazardous waste generated each month and may change from month to month.

As noted during the inspection, Respondent failed to properly determine its generator category. Respondent incorrectly determined its generator status as a large quantity generator for several months in 2023.

As noted during the inspection, Respondent was notified as a Very Small Quantity Generator but re-notified as a Small Quantity Generator in accordance with the previous enforcement case 2023-29192-H on July 27, 2023. Submittals by the facility on October 5 and November 2, 2023, showed that the facility was operating as a Large Quantity Generator for several months in 2023. The facility re-notified as a Large Quantity Generator on November 30, 2023.

5. Pursuant to 40 CFR 262.17(a)(7)(i), (ii), and (iii), facility personnel must complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in compliance with the hazardous waste management rules. Employees must be trained within six months after their date of hire and must take part in an annual review of the initial training.

As noted during the investigation, Respondent failed to implement a hazardous waste management personnel training program. Specifically, at the time of the inspection, Respondent had not provided training to personnel who have hazardous waste management duties.

6. Pursuant to 40 CFR 262.17(a)(1)(v), at least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

As noted during the inspection, Respondent failed to conduct weekly inspections of central accumulation areas.

7. Pursuant to 40 CFR 262.17(a)(6) referencing 40 CFR 262.262(a), a copy of the contingency plan must be maintained at the facility and submitted to all applicable local emergency response teams.

As noted during the inspection, Respondent had not developed a contingency plan as required.

8. Pursuant to 40 CFR 262.17(a)(6) referencing 40 CFR 262.262(b), a large quantity generator that first becomes subject to these provisions after May 30, 2017, or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include:

- (1) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time.

- (2) The estimated maximum amount of each hazardous waste that may be present at any one time.
- (3) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff.
- (4) A map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes.
- (5) A street map of the facility in relation to surrounding businesses, schools, residential areas to understand how best to get to the facility and also evacuate citizens and workers.
- (6) The locations of water supply.
- (7) The identification of on-site notification systems; and
- (8) The name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

As noted during the inspection, Respondent had not developed a Quick Reference Guide as required. On December 7, 2023, IDEM received a QRG, dated December 7, 2023. The QRG did not include a street map in relation to surrounding businesses/schools/residential areas, fire hydrant's flow rate, identification of on-site notification systems, and had not been submitted to local emergency responders.

9. Pursuant to 40 CFR 262.17(a), a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all the conditions of 262.17 are met.

Based on the information submitted to IDEM on October 5, 2023, and November 3, 2023, Respondent stored hazardous waste on-site for greater than 90 days without complying with 40 CFR Part 264 and 40 CFR Part 270. Specifically, Respondent stored four (4) 275-gallon totes containing ignitable hazardous waste (D001) with dates going back to May 10, 2023.

As noted during a record review on February 19, 2024, Respondent failed to make proper waste determination on ten (10) 275-gallon totes, which caused the facility to use an unpermitted transporter to transport waste to an unpermitted hazardous waste facility on August 16, 2023. The facility that received the waste determined it to be hazardous and shipped the containers back to the respondent on December 14, 2023. Thus, causing the waste to be stored and mishandled for longer than 90 days.

10. Pursuant to IC 13-30-2-1(10), a person may not engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

Pursuant to 40 CFR 270.1(c), RCRA requires a permit for the treatment, storage, or

disposal of any hazardous waste as identified or listed in 40 CFR part 261.

Based on the information submitted to IDEM on October 5, 2023, and November 3, 2023, Respondent operated a hazardous waste facility without having first obtained a permit from the department. Specifically, Respondent stored hazardous waste on-site for greater than 90 days.

11. Pursuant to 40 CFR 262.17(a)(5)(i)(A), a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit, provided that, while being accumulated on-site, each container is labeled or marked clearly with the words “Hazardous Waste.”

As noted during the inspection, two (2) 15-gallon drums of (D001) hazardous waste were not marked with the words “Hazardous Waste.”

12. Pursuant to 40 CFR 262.17(a)(5)(i)(B), a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit, provided that, while being accumulated on-site, each container is labeled or marked with an indication of the hazards of the contents.

As noted during the inspection, Respondent accumulated three (3) 275-gallon totes and did not label or clearly mark containers with an indication of the hazards of the contents.

13. Pursuant to 40 CFR 262.17(a)(5)(i)(C), a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the date when the accumulation begins is clearly marked and visible for inspection on each container.

As noted during the inspection, two (2) 15-gallon drum and four (4) 275-gallon totes containing ignitable hazardous waste (D001) were being stored without the accumulation start date.

14. Pursuant to 40 CFR 262.15(a)(5)(i), a generator must mark or label its (satellite) container with the words “Hazardous Waste.”

As noted during the inspection, Respondent did not label one (1) 3-liter satellite container of waste flammable liquid with the words “Hazardous Waste.”

15. Pursuant to 40 CFR 262.15(a)(5)(ii), a generator must mark or label its(satellite) containers 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).

As noted during the inspection, Respondent did not label one (1) 3-liter satellite container of waste flammable liquid with the indication of the hazards of the contents.

16. Pursuant to 40 CFR 273.34(f), universal waste aerosol cans (i.e., each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste—Aerosol Can(s)”, “Waste Aerosol Can(s)”, or “Used Aerosol Can(s)”.

As noted during the inspection, boxes containing aerosol cans were missing the proper universal waste label.

17. Pursuant to 40 CFR 273.15(a), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.
- (b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.
- (c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:
- (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
  - (2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
  - (3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
  - (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
  - (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received;
  - or
  - (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

As noted during the inspection, no method maintained clearly demonstrating the length of time the boxes of universal waste aerosol cans became a waste.

18. Pursuant to 40 CFR 262.11: a person who generates a solid waste must determine if that waste is a hazardous waste 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 RCRA classification of the waste may change.

As noted during the inspection, Respondent did not make hazardous waste determinations on five (5) 275-gallon totes, aerosol cans located in shipping container #2 and two (2) 15-gallon drums.

As noted during the record review on February 19, 2024, Respondent did not make a proper waste determination on ten (10) 275-gallon totes shipped to Inserv, Inc., a solid waste processing facility. In August 2023, Respondent shipped thirty-four (34) 275-gallon totes to Inserv, Inc. as non-hazardous waste. Inserv, Inc. tested 34 totes between August 18 and August 21, 2023, and determined ten of the totes contained D001 ignitable waste. On December 14, 2023, Inserv, Inc. shipped the ten totes of ignitable (D001) hazardous waste and four other totes back to Respondent.

19. Pursuant to 40 CFR 262.18(c), a generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

As noted during a record review on February 19, 2024, Respondent offered hazardous waste to a disposal facility that had not received an EPA identification number for RCRA Part B permitted treatment, storage, disposal activities. Specifically, ten (10) totes of D001 hazardous waste were offered to Inserv, Inc., Solid Waste Program ID 71-06, on August 16, 2023.

20. Pursuant to 40 CFR 262.20, a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal, must prepare a manifest. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest. A generator may designate an alternate facility to handle his waste in the event that an emergency prevents delivery of the waste to the primary designated facility.

As noted during a record review on February 19, 2024, Respondent offered ten (10) totes of D001 hazardous waste for transportation for offsite treatment, storage, or disposal without preparing a manifest.

21. Pursuant to IC 13-30-2-1(12), a person may not cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

As noted during a record review on February 19, 2024, Respondent caused or allowed the transportation of ten (10) totes of D001 hazardous waste without a manifest.



22. Pursuant to 40 CFR 262.17(a)(9) referencing 40 CFR 268.7(a), a generator must determine if a hazardous waste is restricted from land disposal and if the waste has to be treated before being land disposed.

As noted during a record review on February 19, 2024, Respondent did not determine if ten (10) totes of D001 hazardous waste was restricted from land disposal and if the waste had to be treated before being land disposed.

Pursuant to IC 13-30-3-3, the Commissioner herein provides notice that the violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

Pursuant to IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow Respondents the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Lucas Kroening at (317) 941-4551 or [LKroenin@idem.IN.gov](mailto:LKroenin@idem.IN.gov) within fifteen (15) days of receipt of this Notice to discuss resolution of this matter.

Date: June 4, 2024

For the Commissioner:



Lori Freeman, Chief  
Compliance and Enforcement Branch  
Office of Land Quality



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

STATE OF INDIANA ) SS: BEFORE THE INDIANA DEPARTMENT OF
COUNTY OF MARION ) ENVIRONMENTAL MANAGEMENT
COMMISSIONER OF THE DEPARTMENT )
OF ENVIRONMENTAL MANAGEMENT, )
Complainant, )
v. ) Case No. 2023-29906-H
TRI PAC, INC., )
Respondent. )

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code ("IC") 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

- 1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is Tri Pac, Inc., which operates the facility, with EPA ID No. INR000145102, located at 3333 North Kenmore, in South Bend, St. Joseph County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") on via certified mail to:

Vikram Shah, President
Tri Pac, Inc.

Paras Shah, Registered Agent
Tri Pac, Inc.



3333 North Kenmore  
South Bend, IN 46628

50988 Mercury Drive  
Granger, IN 46530

5. Respondent notified EPA of Small Quantity Generator activities on July 27, 2023. On November 30, 2023, Respondent renotified the EPA of Large Quantity Generator activities.
6. Respondent manufactures aerosol and liquid products (personal care, cosmetic, medical devices, and professional care products).
7. 329 Indiana Administrative Code (“IAC”) 3.1 incorporates federal hazardous waste management requirements found in 40 Code of Federal Regulations (“CFR”) Parts 260 through 270 and Part 273, including those identified below.
8. During an investigation including an inspection on July 26, 2023, conducted by a representative of IDEM, record reviews of submissions from Respondent received on September 18, October 17, and November 3, 2023, and correspondence on November 13 and December 7, 2023, from Respondent, and a record review conducted on February 19, 2024, of Inserv, Inc., EPA ID No. IND984872846, the following violations were found:
  - a. Pursuant to 329 IAC 3.1-1-10, every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of its hazardous waste activity on the approved forms.

As noted during the investigation, Respondent failed to notify the Commissioner of the facility’s large quantity generator activities. Specifically, Respondent operated as a large quantity generator of hazardous waste for several months of 2023 without proper notification.

Respondent notified as a Small Quantity Generator on July 27, 2023. Submittals by the facility received by IDEM on October 5 and November 3, 2023 show Respondent operated as a Large Quantity Generator for several months in 2023 prior to notifying as Large Quantity Generator (“LQG”) on November 30, 2023.

- b. Pursuant to 40 CFR 262.13, a generator must determine its generator category. A generator’s category is based on the amount of hazardous waste generated each month and may change from month to month.

As noted during the inspection, Respondent failed to properly determine its generator category. Respondent incorrectly determined its generator status as a large quantity generator for several months in 2023.

As noted during the inspection, Respondent was notified as a Very Small Quantity Generator but renotified as a Small Quantity Generator in accordance with the previous enforcement case 2023-29192-H on July 27, 2023. Submittals by the facility on October 5 and November 2, 2023, showed that the facility was operating as a

Large Quantity Generator for several months in 2023. The facility re-notified as a Large Quantity Generator on November 30, 2023.

- c. Pursuant to 40 CFR 262.17(a)(7)(i), (ii), and (iii), facility personnel must complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in compliance with the hazardous waste management rules. Employees must be trained within six months after their date of hire and must take part in an annual review of the initial training.

As noted during the investigation, Respondent failed to implement a hazardous waste management personnel training program. Specifically, at the time of the inspection, Respondent had not provided training to personnel who have hazardous waste management duties.

On December 7, 2023, IDEM received documentation of hazardous waste management personnel training conducted on November 30, 2023. However, emergency coordinators were not included in the training.

- d. Pursuant to 40 CFR 262.17(a)(1)(v), at least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

As noted during the inspection, Respondent failed to conduct weekly inspections of central accumulation areas.

- e. Pursuant to 40 CFR 262.17(a)(6) referencing 40 CFR 262.262(a), a copy of the contingency plan must be maintained at the facility and submitted to all applicable local emergency response teams.

As noted during the inspection, Respondent had not developed a contingency plan as required.

On December 7, 2023, IDEM received a contingency plan, dated December 4, 2023. The contingency plan had not been submitted to local emergency authorities.

- f. Pursuant to 40 CFR 262.17(a)(6) referencing 40 CFR 262.262(b), a large quantity generator that first becomes subject to these provisions after May 30, 2017, or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include:

- (1) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time.
- (2) The estimated maximum amount of each hazardous waste that may be present at any one time.

- (3) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff.
- (4) A map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes.
- (5) A street map of the facility in relation to surrounding businesses, schools, residential areas to understand how best to get to the facility and also evacuate citizens and workers.
- (6) The locations of water supply.
- (7) The identification of on-site notification systems; and
- (8) The name of the emergency coordinator(s) and 7/24-hour emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

As noted during the inspection, Respondent had not developed a Quick Reference Guide as required. On December 7, 2023, IDEM received a QRG, dated December 7, 2023. The QRG did not include a street map in relation to surrounding businesses/schools/residential areas, fire hydrant's flow rate, identification of on-site notification systems, and had not been submitted to local emergency responders.

- g. Pursuant to 40 CFR 262.17(a), a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all the conditions of 262.17 are met.

Based on the information submitted to IDEM on October 5, 2023 and November 3, 2023, Respondent stored hazardous waste on-site for greater than 90 days without complying with 40 CFR Part 264 and 40 CFR Part 270. Specifically, Respondent stored four (4) 275-gallon totes containing ignitable hazardous waste (D001) with dates going back to May 10, 2023.

As noted during a record review on February 19, 2024, Respondent failed to make proper waste determination on ten (10) 275-gallon totes, which caused the facility to use an unpermitted transporter to transport waste to an unpermitted hazardous waste facility on August 16, 2023. The facility that received the waste determined it to be hazardous and shipped the containers back to the respondent on December 14, 2023. Thus, causing the waste to be stored and mishandled for longer than 90 days.

- h. Pursuant to IC 13-30-2-1(10), a person may not engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

Pursuant to 40 CFR 270.1(c), RCRA requires a permit for the treatment, storage, or disposal of any hazardous waste as identified or listed in 40 CFR part 261.

Based on the information submitted to IDEM on October 5, 2023, and November 3, 2023, Respondent operated a hazardous waste facility without having first obtained a

permit from the department. Specifically, Respondent stored hazardous waste on-site for greater than 90 days.

- i. Pursuant to 40 CFR 262.17(a)(5)(i)(A), a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit, provided that, while being accumulated on-site, each container is labeled or marked clearly with the words “Hazardous Waste.”

As noted during the inspection, two (2) 15-gallon drums of (D001) hazardous waste were not marked with the words “Hazardous Waste.”

- j. Pursuant to 40 CFR 262.17(a)(5)(i)(B), a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit, provided that, while being accumulated on-site, each container is labeled or marked with an indication of the hazards of the contents.

As noted during the inspection, Respondent accumulated three (3) 275-gallon totes and did not label or clearly mark containers with an indication of the hazards of the contents.

As noted on October 5, 2023, the facility submitted photos of the totes marked with the indication of hazards.

- k. Pursuant to 40 CFR 262.17(a)(5)(i)(C), a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the date when the accumulation begins is clearly marked and visible for inspection on each container.

As noted during the inspection, two (2) 15-gallon drum and four (4) 275-gallon totes containing ignitable hazardous waste (D001) were being stored without the accumulation start date.

As noted on November 3, 2023 and November 13, 2023, the facility provided evidence of the accumulation start dates and how the dates were accumulated.

- l. Pursuant to 40 CFR 262.15(a)(5)(i), a generator must mark or label its (satellite) container with the words “Hazardous Waste.”

As noted during the inspection, Respondent did not label one (1) 3-liter satellite container of waste flammable liquid with the words “Hazardous Waste.”

As noted in the inspection report dated August 3, 2023, Respondent corrected the violation during the inspection.

- m. Pursuant to 40 CFR 262.15(a)(5)(ii), a generator must mark or label its (satellite) containers 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).

As noted during the inspection, Respondent did not label one (1) 3-liter satellite container of waste flammable liquid with the indication of the hazards of the contents.

As noted during the inspection report dated August 3, 2023, the violation was corrected during the inspection.

- n. Pursuant to 40 CFR 273.34(f), universal waste aerosol cans (i.e., each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste—Aerosol Can(s)”, “Waste Aerosol Can(s)”, or “Used Aerosol Can(s)”.

As noted during the inspection, boxes containing aerosol cans were missing a proper universal waste label.

As noted on November 3, 2023, the facility provided documentation that shows proper labeling to the boxes of universal waste aerosol cans.

- o. Pursuant to 40 CFR 273.15(a), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.
- (b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.
- (c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

- (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
- (2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
- (3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

- (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
- (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
- (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

As noted during the inspection, no method was maintained clearly demonstrating the length of time the boxes of universal waste aerosol cans became a waste.

As noted on November 3, 2023, the facility provided documentation showing that proper labeling was added to the universal waste boxes that clearly demonstrates the accumulation date.

- p. Pursuant to 40 CFR 262.11: a person who generates a solid waste must determine if that waste is a hazardous waste 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 RCRA classification of the waste may change.

As noted during the inspection, Respondent did not make hazardous waste determinations on five (5) 275-gallon totes, aerosol cans located in shipping container #2 and two (2) 15-gallon drums.

In addition, on October 5, 2023, and November 3, 2023, the facility provided IDEM with waste determinations on five (5) 275-gallon totes, aerosol cans located in shipping container #2 and two (2) 15-gallon drums located next to shipping container #3.

On October 5, 2023, the facility submitted a response stating that the aerosol cans would be managed as universal waste.

As noted during the record review on February 19, 2024, Respondent did not make a proper waste determination on ten (10) 275-gallon totes shipped to Inserv, Inc., a solid waste processing facility. In August 2023, Respondent shipped thirty-four (34) 275-gallon totes to Inserv, Inc. as non-hazardous waste. Inserv, Inc. tested 34 totes between August 18 and August 21, 2023, and determined ten of the totes contained D001 ignitable waste. On December 14, 2023, Inserv, Inc. shipped the ten totes of ignitable (D001) hazardous waste and four other totes back to Respondent.

- q. Pursuant to 40 CFR 262.18(c), a generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.



As noted during a record review on February 19, 2024, Respondent offered hazardous waste to a disposal facility that had not received an EPA identification number for RCRA Part B permitted treatment, storage, disposal activities. Specifically, ten (10) totes of D001 hazardous waste were offered to Inserv, Inc., Solid Waste Program ID 71-06, on August 16, 2023.

- r. Pursuant to 40 CFR 262.20, a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal, must prepare a manifest. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest. A generator may designate an alternate facility to handle his waste in the event that an emergency prevents delivery of the waste to the primary designated facility.

As noted during a record review on February 19, 2024, Respondent offered ten (10) totes of D001 hazardous waste for transportation for offsite treatment, storage, or disposal without preparing a manifest.

- s. Pursuant to IC 13-30-2-1(12), a person may not cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

As noted during a record review on February 19, 2024, Respondent caused or allowed the transportation of ten (10) totes of D001 hazardous waste without a manifest.

- t. Pursuant to 40 CFR 262.17(a)(9) referencing 40 CFR 268.7(a), a generator must determine if a hazardous waste is restricted from land disposal and if the waste has to be treated before being land disposed.

As noted during a record review on February 19, 2024, Respondent did not determine if ten (10) totes of D001 hazardous waste was restricted from land disposal and if the waste had to be treated before being land disposed.

9. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

## **II. ORDER**

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant’s delegate and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with the statutes and rules listed in the findings of fact above.

3. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 262.17(a)(7)(i), (ii), and (iii). Specifically, Respondent shall train all employees who work with hazardous waste and submit training documentation to IDEM. Respondent shall maintain a personnel training program for as long as Respondent remains a large quantity generator of hazardous waste.
4. Within ten (10) days of the Effective Date, Respondent shall comply with 40 CFR 262.17(a)(1)(v). Specifically, Respondent shall immediately begin conducting weekly inspections of the central accumulation areas.
5. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 262.17(a)(6) referencing 40 CFR 262.262(a). Specifically, Respondent shall provide local emergency responders with an updated copy of the contingency plan.
6. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 262.17(a)(6) referencing 40 CFR 262.262(b). Specifically, Respondent shall create a quick reference guide (“QRG”). The QRG shall contain all information specified in the rule. A copy of the QRG shall be submitted to all emergency responders and IDEM.
7. Within thirty (30) days of the Effective Date, Respondent shall comply with 40 CFR 262.17(a), IC 13-30-2-1(10), and 40 CFR 270.1(c). Specifically, Respondent shall not accumulate hazardous waste for more than 90 days unless an extension has been granted to the timeframe for as long as it remains a large quantity generator of hazardous waste.
8. Within thirty (30) days of the Effective Date of this Agreed Order, Respondent shall submit a hazardous waste closure plan for the outside storage area (located by the shipping containers, municipal trash dumpsters, and propane tanks) where hazardous waste was stored longer than ninety (90) days to IDEM for approval. Contact the case manager for how to submit the closure plan. The closure plan shall be completed in accordance with the provisions of 40 CFR 264 Subpart G, as incorporated by 329 IAC 3.1-9-1.
9. Within ten (10) days of notice of IDEM’s approval of the closure plan, Respondent shall implement the plan as approved and in accordance with the time frames contained therein.
10. In the event IDEM determines that any plan submitted by Respondent is deficient or otherwise unacceptable, Respondent shall revise and resubmit the plan to IDEM in accordance with IDEM’s notice. After three (3) submissions of such plan by Respondent, IDEM may modify and approve any such plan and Respondent must implement the plan as modified by IDEM. The approved plan shall be incorporated into this Agreed Order and shall be deemed an enforceable part thereof.
11. Upon the Effective Date, Respondent shall comply with 40 CFR 262.20 and IC 13-30-2-1(12). Specifically, Respondent shall properly manifest hazardous waste prior to shipment.

12. Upon the Effective Date, Respondent shall comply with 40 CFR 262.17(a)(9) referencing 40 CFR 268.7(a). Specifically, Respondent shall determine if hazardous waste is restricted from land disposal and if the waste had to be treated before being land disposed.

13. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Lucas Kroening, Enforcement Case Manager  
Office of Land Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

14. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Forty-Seven Thousand Seven Hundred Forty-Eight Dollars (\$47,748). After this Agreed Order is adopted (signed by the Assistant Commissioner of the Office of Land Quality), Respondent shall pay by the due date printed on the Invoice that will be attached to the adopted Agreed Order.

Civil and stipulated penalties are payable to the “Indiana Department of Environmental Management” by:

Mail:

Civil penalties are payable by check to the “Indiana Department of Environmental Management.” Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management  
Accounts Receivable  
P.O. Box 3295  
Indianapolis, IN 46206

Online:

Accounts Receivable is accepting payments online by e-Check, Master Card, Visa or Discover. Please visit [www.IN.gov/IDEM](http://www.IN.gov/IDEM). Under Online Services, click Online Payment options and follow the prompts. A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

Phone:

You may also call us at 317-234-3099 and follow the instructions for Master Card, Visa or Discover payments. A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

15. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess, and Respondent shall pay a stipulated penalty in the following amount:

<b><u>Paragraph</u></b>	<b><u>Stipulated Penalty</u></b>
Order paragraph # 3	\$100 per week
Order paragraph # 4	\$100 per week
Order paragraph # 5	\$100 per week
Order paragraph # 6	\$100 per week
Order paragraph # 7	\$100 per week
Order paragraph # 8	\$500 per week
Order paragraph # 9	\$500 per week
Order paragraph # 10	\$100 per week

16. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; at which time, a separate invoice will be issued. Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
17. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay an additional penalty of 10 percent, payable to "Indiana Department of Environmental Management," and shall be payable to IDEM in the manner specified in Paragraph 14, above.
18. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
19. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
20. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
21. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
22. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.

23. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
24. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
25. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to seek additional civil penalties for the violations specified in the NOV.
26. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency (U.S. EPA) or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
27. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

**REMAINDER OF PAGE LEFT BLANK INTENTIONALLY**

**TECHNICAL RECOMMENDATION:**  
Department of Environmental Management

**RESPONDENT:**

By: *Jennifer Reno*  
Jennifer Reno, Chief  
Land Enforcement Section  
Compliance Branch  
Office of Land Quality

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: 5/2/2024

Date: \_\_\_\_\_

**COUNSEL FOR RESPONDENT:**

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

For the Commissioner:

\_\_\_\_\_  
Brian Wolff  
Assistant Commissioner  
Office of Land Quality

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

60-02L (1833) dbates 29906-H  
 VIKRAM SHAH PRESIDENT  
 TRI PAC INC  
 3333 NORTH KENMORE  
 SO BEND IN 466228



9590 9402 8575 3244 8936 08

**2. Article Number (Transfer from service label)**

7017 2400 0000 0747 0744

PS Form 3811, July 2020 PSN 7630-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

**A. Signature**

X *Vikram Shah*

- Agent
- Addressee

**B. Received by (Printed Name)**

**C. Date of Delivery**

*6-10-24*

- D. Is delivery address different from Item 1?  Yes**  
**If YES, enter delivery address below:  No**

RECEIVED

**3. Service Type**

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery
- Signature Confirmation Restricted Delivery

JUN 11 2024  
 DEPARTMENT OF  
 ENVIRONMENT &  
 OFFICE

Domestic Return Receipt

USPS TRACKING#



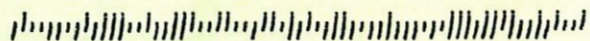
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

9590 9402 8575 3244 8936 08

**United States  
Postal Service**

• Sender: Please print your name, address, and ZIP+4® in this box•

60-02L 1833 dbates  
DEPT OF ENVIRONMENTAL MGMT  
OFFICE OF LAND QUALITY ENFORCEMENT  
100 N SENATE AVE RM N1101  
INDIANAPOLIS IN 46204





Tracking Number:

Remove X

## 7017240000007470751

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

### Latest Update

Your item could not be delivered on June 26, 2024 at 8:39 am in GRANGER, IN 46530. It was held for the required number of days and is being returned to the sender.

#### Get More Out of USPS Tracking:

**USPS Tracking Plus®**

#### Alert

##### Unclaimed/Being Returned to Sender

GRANGER, IN 46530  
June 26, 2024, 8:39 am

##### No Access to Delivery Location

GRANGER, IN 46530  
June 8, 2024, 12:22 pm

See All Tracking History

Feedback

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates



USPS Tracking Plus®



Product Information



**See Less** ^

Track Another Package

Enter tracking or barcode numbers

## **Need More Help?**

Contact USPS Tracking support for further assistance.

**FAQs**