



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

# Universal Waste Enforcement: Arkansas Department of Energy and Environment – Division of Environmental Quality and Crittenden County Electronics Salvaging/Reselling Facility Enter into Consent Administrative Order

11/13/2020

The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Upper Edge Technologies, Inc. (“Upper Edge”) entered into an October 13th Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation 23 (Hazardous Waste Regulations). See LIS No. 20-181.

The CAO provides that Upper Edge is an electronic salvaging and reselling facility (“Facility”) located in Crittenden County, Arkansas.

The Facility is stated to collect, dismantle, and evaluate consumer electronics for the purpose of facilitating the recycling, reclamation and reuse of individual components. Further, the Facility is stated to be a Large Quantity Handler of Universal Waste (“LQHUW”) as defined by Regulation 23 § 273.9.

DEQ is stated to have conducted a Compliance Evaluation Inspection (“CEI”) at the Facility on October 26, 2018. Further, DEQ personnel and Upper Edge are stated to have participated in a November 5, 2018, conference call in which additional information was provided about the Facility’s operations.

The CEI and information from the conference call are alleged to have identified the following violations of Regulation 23:

- Failure to notify DEQ and receive an EPA Identification Number before meeting or exceeding the 5,000 kilogram storage limit
- Failure to make a waste determination
- Failure to properly and timely dispose of waste
- Failure to demonstrate waste accumulation time
- Failure to provide necessary training
- Failure to provide records of waste received
- Failure to maintain the soundness of containers

- Failure to properly label waste

Upper Edge is stated to have submitted on January 28, 2019, to DEQ a response to the CEI.

An additional meeting was held and documentation exchanged regarding the alleged violations. Further, Upper Edge stated that the universal waste was weighed internally to be only 2,160 kilograms, and as such it should be considered a Small Quantity Handler of Universal Waste ("SQHUW").

Upper Edge is stated to have subsequently submitted to DEQ on February 7, 2020, a Notification of RCRA Subtitle C form to request reclassification into a SQHUW. Such form is stated to have been accepted by DEQ.

The CAO requires that Upper Edge submit to DEQ for review and approval, either written procedures for determining if separated components of consumer electronic items exhibit a characteristic of hazardous waste or written notification that disassembled consumer electronic items will be managed as universal waste.

Further, within 30 days of the effective date of the CAO, Upper Edge is required to ship all electronic waste with an accumulation date greater than one year to another universal waste handler or destination facility. Documentation is required to be provided within 30 calendar days of the effective date of the CAO showing what process is in place to demonstrate the length of time universal waste accumulates on-site.

In addition, a training program must be submitted to DEQ for review and approval within 30 calendar days of the CAO. The training program should be designed to ensure all employees who are responsible for handling universal waste are familiar with universal waste handling regulations and emergency procedures.

Finally, within 60 calendar days of the effective date of the CAO, Upper Edge is required to submit a Standard Operating Procedure for recordkeeping procedures of universal waste shipments sent to other facilities.

A civil penalty of \$19,125 is assessed, which could have been reduced to one half if the document was signed and returned to DEQ within 20 calendar days of its receipt.

A copy of the CAO can be downloaded [here](#).