

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Advanced Technical Finishing, LLC
Huntsville, Madison County, Alabama
EPA Identification Number ALD059903641**

Consent Order No. 17-XXX-CHW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department" or "ADEM") and Advanced Technical Finishing, LLC (hereinafter "Advanced Technical Finishing") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, as amended, and the Alabama Hazardous Wastes Management and Minimization Act (hereinafter "AHWMMA"), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. Advanced Technical Finishing is an electroplating and metal finishing operation with EPA Identification Number ALD059903641, located at 1003 Orchard Street in Huntsville, Madison County, Alabama. Advanced Technical Finishing, as a result of its operations at the facility, was a large quantity generator, as that term is defined in ADEM Admin. Code r. 335-14-1-.02(1)(a)251., at all times relevant to this action.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, as amended.

3. Pursuant to Ala. Code § 22-22A-4(n), (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act §§ 1002 to 11012, 42 U.S.C. §§ 6901 to 6992k, as amended. In addition, the Department is authorized to administer and enforce the provisions of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

DEPARTMENT'S CONTENTIONS

4. On July 28, 2016, a representative of the Department conducted a compliance evaluation inspection (CEI) of Advanced Technical Finishing to determine compliance with all applicable requirements of Division 14 of the ADEM Administrative Code. The CEI and a review of Advanced Technical Finishing's compliance revealed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(4)(a), a large quantity generator must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current waste activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of April for generators located in Madison County. Advanced Technical Finishing has not submitted to the Department a *Notification of Regulated Waste Activity* (ADEM Form 8700-12) since March 2015.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.04(2)(a), a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Department by March 1 of each even numbered year. Advanced Technical Finishing did not submit to the Department the Biennial Report that was due March 1, 2016.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.02(4)(a)3. referencing ADEM Admin. Code r. 335-14-3-.04(1)(a), a generator must keep a copy of each manifest signed in accordance with 335-14-3-.02(4)(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. Advanced Technical Finishing was not able to provide copies of hazardous waste shipping manifests for the last three years. At the time of the inspection, only one hazardous waste shipping manifest for 2015 was made available for inspection.

(d) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)4. referencing ADEM Admin. Code r. 335-14-6-.04(5)(d), the required contingency plan must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

Advanced Technical Finishing had not amended its contingency plan to reflect a change in the list of emergency coordinators. None of the emergency coordinators listed in Advanced Technical Finishing's contingency plan are employed currently at the facility.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)4. referencing ADEM Admin. Code r. 335-14-6-.02(7)(d), the generator must maintain at the facility records that document that the required initial and/or annual hazardous waste management and emergency response training or job experience have been given to, and completed by, facility personnel.

Advanced Technical Finishing was unable to provide any documentation demonstrating it had provided the required employees with initial and/or annual hazardous waste management and emergency response training or job experience.

(f) Pursuant to ADEM Admin. Code r. 335-14-3.03(5)(a)4. referencing ADEM Admin. Code r. 335-14-6-.03(8)(b), the generator must maintain at the facility documentation of its attempts to make arrangements with specified local authorities and hospitals which may be called upon to respond to an emergency.

Advanced Technical Finishing was unable to provide any documentation of its attempts to make arrangements with local authorities (e.g., hospital, police and fire departments).

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)1.(i) referencing ADEM Admin. Code r. 335-14-6-.09(5), a generator must inspect areas where containers are stored, at least weekly looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors. The owner or operator must also note the number and capacity of hazardous waste containers present. These inspections must be documented in accordance with rule 335-14-6-.02(6)(d). ADEM Admin. Code r. 335-14-6-

.02(6)(d) requires the owner or operator to record inspections in an inspection log or summary and keep these records for at least three years from the date of inspection.

Advanced Technical Finishing was only able to provide documentation of weekly inspection logs of its hazardous waste storage area for January 2015. In addition, the number and capacity of containers were not noted on the inspection logs that were furnished at the time of the inspection.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(c)1.(ii), a generator may accumulate as much as 55 gallons of hazardous waste at or near the point of generation where wastes initially accumulate, without a permit and without complying with 335-14-3-.03(5)(d), provided that the containers are marked with the words "Hazardous Waste" or with other words that identify the contents of the containers.

Advanced Technical Finishing did not mark a 55-gallon satellite accumulation container staged near the Paint Booth with either the words "Hazardous Waste" or with other words describing the contents.

(i) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)4. referencing ADEM Admin. Code r. 335-14-6-.03(6), the generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

Advanced Technical Finishing did not provide adequate aisle space around hazardous waste containers in the hazardous waste storage and usable chemical area.

(j) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)1.(i) referencing ADEM Admin. Code r. 335-14-6-.09(4)(a), a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

Advanced Technical Finishing did not keep closed two 3-cubic yard cardboard boxes holding hazardous waste filter cake (F006) in the hazardous waste storage and usable chemicals area.

(k) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)3., while being accumulated on-site, each container and tank holding hazardous waste should be labeled or marked clearly with the words, "Hazardous Waste" and the EPA hazardous waste number.

Advanced Technical Finishing did not mark or label two three-cubic cardboard box containers holding hazardous waste filter cake (F006) and one 55-gallon drum of hazardous waste located in the hazardous waste storage and usable chemicals area with the words "Hazardous Waste" or the applicable EPA hazardous waste numbers.

(l) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)2., a 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.

Advanced Technical Finishing did not mark accumulation start dates on two three-cubic cardboard boxes holding hazardous waste filter cake (F006) and one 55-gallon drum of hazardous waste located in the hazardous waste storage and usable chemicals area.

(m) Pursuant to ADEM Admin. Code r. 335-14-3.03(5)(a)4. referencing ADEM Admin. Code r. 335-14-6-.02(5)(c), unless exempt under 335-14-6-.02(5)(a)1. and (a)2., a sign with the legend, "Danger—Unauthorized Personnel Keep Out", must be posted at each entrance to the active portion of a facility, and at other locations, in the sufficient numbers to be seen from any approach to this active portion. The legend must be written in English and in any other language predominant in the workplace and the area surrounding the facility, and must be legible from a distance of at least 25 feet.

Advanced Technical Finishing, not exempt under 335-14-6-.02(5)(a)1. and (a)2., did not post security/warning signs with the legend "Danger—Unauthorized Personnel Keep Out" at each entrance to the active portion of the facility, and at other locations, in the sufficient numbers to be seen from any approach to this active portion.

(n) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(b), a large quantity generator who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 335-14-5 and 335-14-6, and the permit requirements of 335-14-8 unless he has been granted an extension to the 90 day period.

Advanced Technical Finishing stored one 55-gallon drum of hazardous waste on-site for more than 90 days, and was not granted an extension. Advanced Technical Finishing did not comply with all applicable standards for the owner or operator of a hazardous waste storage facility and had not obtained from the Department a hazardous waste storage facility permit. At the time of the inspection, one 55-gallon drum labeled with the words "Permanent Paint Waste" and marked with an accumulation start date of "8/11/14" was stored in the hazardous waste storage and usable chemicals area. On October 24, 2016, Advanced Technical Finishing provided to the Department documentation demonstrating that the aforementioned hazardous waste container was shipped to a permitted hazardous waste storage and treatment facility in Smithfield, Kentucky.

(o) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)4. referencing ADEM Admin. Code r. 335-14-6-.02(5)(a), and unless exempt under this rule, a large quantity generator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility. Further, ADEM Admin. Code r. 335-14-6-.02(5)(a) requires facilities not exempt under r. 335-14-6-.02(5)(a) to have a 24-hour surveillance system or an artificial or natural barrier which completely surrounds the active portion of the facility.

Advanced Technical Finishing did not have in place a means to prevent or minimize the unauthorized entry of persons into the hazardous waste storage area as required. The hazardous waste storage area, which was collocated with the product or usable chemicals area, was neither monitored by a 24-hour surveillance system nor surrounded by a barrier of any kind.

5. On September 27, 2016, the Department issued to Advanced Technical Finishing a Notice of Violation citing violations of the hazardous waste program regulations that were observed or existed at the time of the July 28, 2016 CEI.

6. On October 26, 2016 and October 31, 2016, the Department received Advanced Technical Finishing's responses to the September 27, 2016 Notice of Violation.

7. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation(s), including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation(s) upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department shall not exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATIONS:** The Department noted fifteen violations of ADEM Admin. Code div. 335-14. In arriving at the civil penalty, the Department considered the general nature and magnitude of the violations along with the lack of any available evidence of irreparable harm to the environment or threat to the health and safety of the public.

(b) **THE STANDARD OF CARE:** In considering the standard of care manifested by Advanced Technical Finishing, the Department noted that the violations listed above were easily avoidable. Consequently, Advanced Technical Finishing did not exhibit a standard of care commensurate with applicable regulatory standards.

(c) ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that there was no significant economic benefit gained by Advanced Technical Finishing as a result of the violations referenced herein.

(d) EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects to mitigate as a result of the alleged violations.

(e) HISTORY OF PREVIOUS VIOLATIONS: Advanced Technical Finishing does not have a documented history of previous violations of Division 14 of the ADEM Administrative Code.

(f) THE ABILITY TO PAY: Advanced Technical Finishing has not alleged an inability to pay the civil penalty.

(g) OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty that is warranted in the spirit of cooperation and the desire to resolve this matter amicably without incurring the unwarranted expense of litigation.

8. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code §22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty is appropriate (see "Attachment A", which is made a part of the Department's Contentions).

9. The Department neither admits nor denies Advanced Technical Finishing's contentions, which are set forth below. The Department has agreed to the terms of this Special Order by Consent in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Special Order by Consent are in the best interest of the citizens of Alabama.

ADVANCED TECHNICAL FINISHING'S CONTENTIONS

10. Advanced Technical Finishing neither admits nor denies the Department's contentions. Advanced Technical Finishing consents to abide by the terms of this Special Order by Consent and to pay the civil penalty assessed herein.

ORDER

Therefore, without admitting that it has violated any statutes or regulations, Advanced Technical Finishing, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and Advanced Technical Finishing agree to enter into this Special Order by Consent with the following terms and conditions:

A. Advanced Technical Finishing agrees to pay to the Department a civil penalty in the amount of \$12,000 in settlement of the violations alleged herein within 180 days of the effective date of this Special Order by Consent. Failure to pay the civil penalty within 180 days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. Advanced Technical Finishing agrees that all penalties due pursuant to this Special Order by Consent shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or other payment methods acceptable to the Department and shall be remitted to:

Office of General Counsel

Alabama Department of Environmental Management

P.O. Box 301463

Montgomery, Alabama 36130-1463

Any payment submitted to the Department pursuant to this Special Order by Consent shall reference Advanced Technical Finishing's name and address, and the ADEM Administrative Order number of this action.

C. Advanced Technical Finishing agrees that, independent of this Special Order by Consent, Advanced Technical Finishing shall comply with all terms, conditions, and limitations of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

D. The Department and Advanced Technical Finishing (hereinafter the "parties") agree that this Special Order by Consent shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Special Order by Consent, to execute the Special Order by Consent on behalf of the party represented, and to legally bind such party.

E. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Special Order by Consent is intended to operate as a full resolution of the alleged violations cited herein.

F. Advanced Technical Finishing agrees that it is not relieved from any liability if it fails to comply with any provision of this Special Order by Consent.

G. For purposes of this Special Order by Consent only, Advanced Technical Finishing agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

H. The parties agree that the sole purpose of this Special Order by Consent is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future which would constitute possible violations not addressed in this Special Order by Consent, then such future violations may be addressed in orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be

appropriate; Advanced Technical Finishing agrees not to object to such future orders, litigation, or enforcement action based on the issuance of this Special Order by Consent if future orders, litigation, or other enforcement action address new matters not raised in this Special Order by Consent.

I. The parties agree that this Special Order by Consent shall be considered final and effective immediately upon signature of all parties. This Special Order by Consent shall not be appealable, and Advanced Technical Finishing does hereby waive any hearing on the terms and conditions of this Special Order by Consent.

J. The parties agree that this Special Order by Consent shall not affect Advanced Technical Finishing's obligation to comply with any Federal, State, or local laws or regulations.

K. The parties agree that final approval and entry into this Special Order by Consent are subject to the requirements that the Department give notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the order.

L. The parties agree that, should any provision of this Special Order by Consent be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

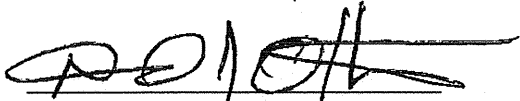
M. The parties agree that any modifications of this Special Order by Consent must be agreed to in writing signed by both parties.

N. The parties agree that, except as otherwise set forth herein, this Special Order by Consent is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve Advanced Technical Finishing of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

ADVANCED TECHNICAL FINISHING, LLC

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

David J. Otterson

(Printed Name)

President

(Printed Title)

06 JAN 2017

(Date Signed)

Lance R. LeFleur
Director

(Date Executed)

Attachment A
Advanced Technical Finishing, LLC
Huntsville, Madison County, Alabama
EPA Identification Number ALD059903641

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*
Failure to submit ADEM Form 8700-12 to the Department annually	1	\$100	\$100	\$0
Failure to submit 2015 Hazardous Waste (Biennial Report to the Department	1	\$100	\$100	\$0
Failure to maintain/ provide copies of hazardous waste shipping manifests	1	\$100	\$100	\$0
Failure to keep Emergency Coordinator list up-to-date	1	\$100	\$100	\$0
Failure to provide records demonstrating that the required employees had received the required training	1	\$1,000	\$100	\$0
Failure to provide documentation of arrangements with local emergency authorities	1	\$100	\$100	\$0
Failure to provide documentation of weekly inspections of the 90-day hazardous waste storage area	1	\$500	\$500	\$0
Failure to mark or label a one 55-gallon satellite drum container with the words "Hazardous Waste"	1	\$100	\$100	\$0
Failure to maintain adequate aisle space	1	\$100	\$100	\$0
Failure to keep close two three-cubic cardboard box containers holding hazardous waste	1	\$100	\$100	\$0

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
Failure to label two three-cubic cardboard box containers and one 55-gallon drum holding hazardous waste	1	\$100	\$100	\$0	
Failure to mark accumulation start dates on two-three cubic cardboard box containers and one 55-gallon drum holding hazardous waste	1	\$100	\$100	\$0	
Failure to post the required security/warning signs around 90-day hazardous waste storage area	1	\$100	\$100	\$0	
Storing hazardous waste on site over for greater than 90 days without a permit	1	\$10,000	\$1,000	\$0	
Failure to prevent or minimize unauthorized entry of persons into the 90-day hazardous waste storage area	1	\$100	\$100	\$0	
TOTAL PER FACTOR		\$12,700	\$2,800	\$0	Total of Three Factors \$15,500

Adjustments to Amount of Initial Penalty	
Mitigating Factors* (-)	\$0
Ability to Pay* (-)	\$0
Other Factors (+/-)	\$3,500)
Total Adjustments (+/-) Enter at Right	(\$3,500)

Economic Benefit* (+)	\$0
Amount of Initial Penalty	\$15,500
Total Adjustments (+/-)	(\$3,500)
FINAL PENALTY	\$12,000

Footnotes

* See the "DEPARTMENT'S CONTENTIONS" portion of the Order for a detailed description of each violation and the penalty factors.