

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Aerospace Coatings International, LLC
Oxford, Talladega County, Alabama
EPA Identification Number ALR000026872**

Consent Order No. 20-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 Aerospace Coatings International, LLC (hereinafter "Aerospace Coatings International") 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. Aerospace Coatings International, LLC (hereinafter "Aerospace Coatings International"), a foreign limited liability company, operates an aircraft repair and maintenance facility with EPA Identification Number ALR000026872, located at 370 Knight Drive in Oxford, Talladega County, Alabama (hereinafter "the Site"). Aerospace Coatings International, as a result of its operations at the facility, was a large quantity generator, as that term is defined in ADEM Admin. Code Div. 14, 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), 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 June 25, 2019, a representative of the U. S. Environmental Protection Agency - Region 4 and the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection (hereinafter "CEI") of Aerospace Coatings International to determine compliance with all applicable requirements of Division 14 of the ADEM Administrative Code. The CEI and a review of Aerospace Coatings International's compliance revealed the following:

- a) ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Chapter 335-14-2. As a condition to being exempt from this requirement when accumulating hazardous waste, ADEM Admin. Code r. 335-14-3-.01(7)(a)2. and 335-14-6-.10(4) requires a large quantity generator to provide secondary containment for tanks. Under ADEM Admin. Code r. 335-14-6-.10 (7) (b) 2., all materials released to a secondary containment system must be removed within 24 hours or in as timely a manner as is possible to prevent harm to human health and the environment.

Aerospace Coatings International accumulated waste sodium hydroxide solution (D002, D006, D007), hydrochloric acid (D002), and used cutting oil contaminated with chromium and lead (D007, D008) in the secondary containment systems for its electroplating, stripping, refurbishing, and finishing operations. Aerospace Coatings International captured spills of plating solution and rinsate in the stripper shop secondary containment system, and lead- and chromium-contaminated cutting oil inside located in the ID shop and the OD shop floor drain systems. Aerospace Coatings International failed to conduct timely removal of these wastes; thereby operating the secondary containment system(s)/floor drain system(s) as a hazardous waste storage tank(s) with no secondary containment. Aerospace Coatings International failed to meet

the conditional exclusions applicable to storage of hazardous waste in a tank(s) by a large quantity generator.

- b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)4., a satellite accumulation container holding a hazardous waste must be closed at all times, except when adding, removing, or consolidating waste or when temporary venting of a container is necessary for the proper operation of equipment or to prevent dangerous situations, such as build-up of extreme pressure.

Aerospace Coatings International failed to keep closed eight satellite accumulation containers of hazardous waste.

- c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5.(i), a generator must mark or label satellite accumulation containers with the words "Hazardous Waste".

Aerospace Coatings International failed to mark or label five satellite accumulation containers of hazardous waste with the words "Hazardous Waste".

- d) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(v), at least weekly, a large quantity generator must inspect central accumulation areas. The large quantity generator must record inspections in an inspection log or summary. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Aerospace Coatings International failed to note the time of each inspection in records of inspections of its central accumulation area.

- e) Pursuant to ADEM Admin. Code r. 335-14-3-.14(2), a large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

Aerospace Coatings International failed to operate three satellite accumulation areas in a manner that minimized the possibility of release of hazardous waste to the environment (hazardous wastes were observed on the sides of containers or on the floor in these areas).

- f) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(a), a large quantity generator must submit a copy of the required contingency plan and all revisions of the plan to all local emergency responders.

Aerospace Coatings International failed to submit the most recent revision of its contingency plan to local emergency responders.

- g) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(b), a large quantity generator must submit a quick reference guide of the contingency plan to all local emergency responders.

Aerospace Coatings International failed to submit a quick reference guide of its contingency plan to local emergency responders.

- h) Pursuant to ADEM Admin. Code r. 335-14-11-.02(4)(d)1., a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

Aerospace Coatings International failed to keep closed one container of universal waste lamps.

5. On July 26, 2019, the Department issued a Notice of Violation to Aerospace Coatings International, which cited violations of the hazardous waste regulations that were discovered during the inspection.

6. On August 27, 2019, the Department received Aerospace Coatings International's response to the aforementioned Notice of Violation.

7. Pursuant to Ala. Code § 22-22A-5(18), 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:** In arriving at the civil penalty, the Department considered the general nature and magnitude of the violations along with the available evidence of irreparable harm to the environment and threat to the health or safety of the public.

(b) **THE STANDARD OF CARE:** In considering the standard of care manifested by Aerospace Coatings International, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Aerospace Coatings International has failed to exhibit a standard of care commensurate with the 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 Aerospace Coatings International 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 violations referenced herein.

(e) **HISTORY OF PREVIOUS VIOLATIONS:** Based on a review of Department records, Aerospace Coatings International has a history of similar violations and the penalty has been adjusted for those findings.

(f) THE ABILITY TO PAY: Aerospace Coatings International 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 (see Attachment A, which is made a part of the Department's Contentions).

8. The Department neither admits nor denies Aerospace Coatings International'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.

FACILITY'S CONTENTIONS

9. Aerospace Coatings International neither admits nor denies the Department's contentions. Aerospace Coatings International 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, Aerospace Coatings International, 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 Aerospace Coatings International agree to enter into this Special Order by Consent with the following terms and conditions:

A. Aerospace Coatings International agrees to pay to the Department a civil penalty in the amount of \$25,000 in settlement of the violations alleged herein within **forty-five** days of the effective date of this Special Order by Consent. Failure to pay the civil penalty within forty-five 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. Aerospace Coatings International 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 Aerospace Coatings International's name and address, and the ADEM Administrative Order number of this action.

C. Aerospace Coatings International agrees that, independent of this Special Order by Consent, Aerospace Coatings International 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 Aerospace Coatings International (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 Special Order by Consent 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. Aerospace Coatings International 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, Aerospace Coatings International 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; Aerospace Coatings International 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 Aerospace Coatings International 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 Aerospace Coatings International'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 Aerospace Coatings International of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

FACILITY

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)


(Printed Name)


(Printed Title)


(Date Signed)

Lance R. LeFleur
Director

(Date Executed)

Attachment A
Aerospace Coatings International, LLC
Oxford, Talladega County
Facility ID No. ALR000026872

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
Unpermitted storage of hazardous waste	2	\$20,000	\$7,500	\$1,000	
Failure to keep closed all hazardous waste satellite accumulation containers	1	\$100	\$50	\$50	
Failure to mark or label satellite accumulation containers with the words "Hazardous Waste"	1	\$100	\$50	\$50	
Failure to document the time of inspection of the hazardous waste storage areas	1	\$100	\$50	\$50	
Failure to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste	1	\$1,000	\$100	\$0	
Failure to submit a copy of the contingency plan and all revisions of the plan to all local emergency responders	1	\$100	\$50	\$0	
Failure to submit a quick reference guide of the contingency plan to all local emergency responders	1	\$100	\$50	\$0	
Failure to keep closed all containers holding universal waste lamps	1	\$100	\$50	\$0	Total of Three Factors
TOTAL PER FACTOR		\$21,600	\$7,900	\$1,150	\$30,650

Adjustments to Amount of Initial Penalty

Mitigating Factors (-)	\$0	Economic Benefit (+)	\$0
Ability to Pay (-)	\$0	Amount of Initial Penalty	\$30,650
Other Factors (+/-)	(\$5,650)	Total Adjustments (+/-)	(\$5,650)
Total Adjustments (+/-) Enter at Right	(\$5,650)	FINAL PENALTY	\$25,000

Footnotes

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