

DEPARTMENT'S CONTENTIONS

1. On April 3, 2017, the Department issued a medical waste transporter permit to Enviromed of Bay County, Inc. This permit expired on April 2, 2020.

2. On January 12, 2021, the Department received email communication from Trilogy stating the change of ownership of Enviromed of Bay County, Inc. to Trilogy, with a question as to whether the Department had received the application for this change of ownership. The Department informed Trilogy that its application had not been received and that Enviromed of Bay County's medical waste transporter permit had expired.

3. On January 15, 2021, the Department received Trilogy's medical waste transporter permit application. The Department received the applicable fee for this permit on January 19, 2021.

4. On January 15, 2021, the Department requested the company's shipping manifests for the past two years.

5. On January 19, 2021, the Department received shipping manifests from Trilogy covering the period from March 3, 2020 to January 12, 2021.

6. Based on a review of the shipping manifests, as well as Enviromed of Bay City's expired transporter permit, and the aforementioned emails and permit application from Trilogy, the Department determined that Trilogy violated certain requirements of Division 17 of the ADEM Administrative Code. Specifically, the Department identified the following violation:

Pursuant to ADEM Admin. Code r. 335-17-5-.01(10) and ADEM Medical Waste Transporter Permit Condition (II)(D), all medical waste transporters must apply for a permit with the Department to transport untreated medical waste in Alabama, and any transfer of this permit must be approved by the Department.

Trilogy transported medical waste in excess of twenty (20) times in Alabama between March 3, 2020 and January 12, 2021 without having received an Alabama Medial Waste Transport Permit from the Department.

Enviromed of Bay City's permit expired on April 2, 2020. Enviromed of Bay County, Inc. was acquired by Trilogy in March 2020. No change of ownership was made known to the Department until January 2021. The Department did not receive a permit application from Trilogy to obtain a new permit until January 2021.

7. On February 9, 2021, the Department determined Trilogy's permit application for medical waste transportation to be complete and issued a three-year medical waste transporter permit to Trilogy.

8. On February 11, 2021 the Department issued to Trilogy a Notice of Violation (hereinafter "NOV") for failing to notify the Department of the change of ownership of the medical waste transporter and operating without a valid medical waste permit.

9. On February 27, 2021, the United States Postal Service delivered the NOV to Trilogy.

10. The Department did not received a response to the NOV.

11. 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 violations, 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 violations 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 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. 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 VIOLATION: In arriving at the civil penalty, the Department considered the general nature and magnitude of the violations along with the available evidence of the threat to the health and safety of the public.

B. THE STANDARD OF CARE: In considering the standard of care manifested by Trilogy, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Trilogy failed to exhibit a standard of care commensurate with the applicable regulatory standards and its permits.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if Trilogy has realized a significant economic benefit because of the alleged violation.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects to mitigate because of the violation reference herein.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of departmental records, Trilogy does not have a documented history of violations of the applicable requirements of Division 17 of the ADEM Admin. Code.

F. THE ABILITY TO PAY: Trilogy 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 it believes is warranted in this matter 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.)

12. The Department neither admits nor denies Trilogy's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violation cited herein without the unwarranted expenditure of State resources in further prosecuting the above violation. The Department has

determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

TRILOGY'S CONTENTIONS

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

ORDER

THEREFORE, Trilogy, along with the Department, desires to resolve and settle the noncompliance issue 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 has determined that the following conditions are appropriate to address the violation alleged herein. Therefore, the Department and Trilogy agree to enter into this Consent Order with the following terms and conditions:

A. Trilogy agrees to pay the Department a civil penalty in the amount of \$8,000 in settlement of the violation alleged herein with 120 days from the effective date of this Consent Order. Failure to pay the civil penalty within 120 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. Trilogy agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or any other method of payment 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

All payments shall reference Trilogy's legal name and address and the ADEM Administrative Order number of this action.

C. Trilogy agrees that, independent of this Consent Order Trilogy shall comply will all terms, conditions, and limitations of its Permit and the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, as amended, and the regulations promulgated pursuant thereto.

D. The Department and Trilogy (hereinafter, the "parties") agree that this Consent Order 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 Consent Order, to execute the Consent Order 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 Consent Order is intended to operate as a full resolution of the violation cited herein.

F. Trilogy agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, Trilogy 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 Consent Order 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 concerning the property which would constitute possible violations not addressed in this Consent Order, 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, and Trilogy shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

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

J. The parties agree this Consent Order shall not affect Trilogy's obligation to comply with any Federal, State, or local laws or regulations.

K. The parties agree that final approval and entry into this Consent Order 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 Consent Order 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.

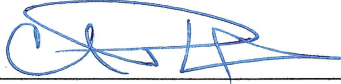
M. The parties agree any modifications to this Consent Order must be agreed to in writing signed by both parties.

N. That, the Department and Trilogy agree that, except as otherwise set forth herein, this Consent Order 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 the Commission of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

Trilogy MedWaste Southeast, LLC

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**



(Signature of Authorized
Representative)

Chad Plata
(Printed Name)

Director of Compliance
(Printed Title)

08/03/2021
Date Signed

Lance R. LeFleur

Director

Date Executed

Attachment A

Trilogy MedWaste Southeast, LLC

Medical Waste Transporter

Panama City, Bay County, Florida

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Transporting Medical Waste without a permit	1	\$9,000	\$1,000	\$0	Total of Two Factors
TOTAL PER FACTOR		\$9,000	\$1,000	\$0	\$10,000

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	(-\$2,000)
	(-\$2,000)

Economic Benefit (+)*	\$0
Amount of Initial Penalty	\$10,000
Total Adjustments (+/-)	(-\$2,000)
FINAL PENALTY	\$8,000

Footnotes

* See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors.