

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Ruskin Company Inc.  
Geneva, Geneva County, Alabama  
USEPA ID Number ALD031612732**

Consent Order No. 22-XXX-CHW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and Ruskin Company Inc. (“Ruskin”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, and the Alabama Hazardous Wastes Management and Minimization Act (“AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

**STIPULATIONS**

1. Ruskin operates an aluminum heating, ventilation, and air conditioning system component manufacturing facility (the “Facility”) with EPA Identification Number ALD031612732, located at 1300 Enterprise Road in Geneva, Geneva County, Alabama. Ruskin, as a result of its operations at the Facility, was a large quantity generator of hazardous waste, a small quantity handler of universal waste, and a used oil generator, as those terms are 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-17, 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 AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

#### **DEPARTMENT'S CONTENTIONS**

4. On March 2, 2022, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Ruskin. The CEI and a review of Ruskin's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(2), a person who generates a solid waste, as defined in 335-14-2-.01(2), must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable AHWMMMA regulations.

Ruskin failed to provide a hazardous waste determination for wastewater treatment plant sludge (aluminum hydroxide filter cake) at the time of inspection.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)4., a satellite accumulation container holding hazardous waste must be closed at all times during accumulation, except when adding, removing, or consolidating waste.

Ruskin failed to keep closed the following satellite accumulation hazardous waste containers: two 55-gallon containers located in the small paint shop, four 55-gallon containers located in the large paint shop, and one 55-gallon container located in the paint mixing room.

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

Ruskin failed to mark or label two 55-gallon satellite accumulation containers located in the large paint shop with the words "Hazardous Waste".

(d) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5.(ii), a generator must mark or label its satellite accumulation containers with an indication of the hazards of the contents.

Ruskin failed to mark or label one 55-gallon satellite accumulation container located in the large paint shop with an indication of the hazards of the contents.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)6.(iii), a generator who accumulates either acute hazardous waste or non-acute hazardous waste in excess of the amounts listed in 335-14-3-.01(5)(a) at the satellite accumulation area must mark or label the container(s) holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

Ruskin failed to mark or label the following satellite accumulation containers with an accumulation start date: one 55-gallon satellite accumulation container located in the large paint shop and three 55-gallon satellite accumulation containers located in the paint storage B2 building.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a), a large quantity generator may accumulate hazardous waste on site without a permit or interim status provided the generator accumulates hazardous waste on site for no more than 90 days, unless it has been granted an extension to the 90-day period. 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.

Ruskin stored hazardous waste on site for more than 90-days during the following periods without being granted an extension to the 90-day period: October 18, 2019, through January 20, 2020; March 23, 2020, through July 8, 2020; July 13, 2020, through October 12, 2020; October 19, 2020, through March 3, 2021; May 13, 2021, through August 26, 2021; and November 15, 2021, through February 16, 2022

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(i)2., a large quantity generator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into the central accumulation area. The large quantity generator must have an artificial or natural barrier, which completely surrounds the active portion of the facility, and a means to control entry, at all times, through the gates or other entrances to the central accumulation area.

Ruskin stored hazardous waste, not in satellite accumulation, in the xylene recovery area and failed to prevent the unknowing entry or minimize the possibility for unauthorized entry of persons or livestock.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(ii), unless exempt under 335-14-3-.01(7)(a)10., a sign with the legend, "Danger--Unauthorized Personnel Keep Out", must be posted at each entrance to the central accumulation area in sufficient numbers to be seen from any approach and must be legible from a distance of at least 25 feet.

Ruskin stored hazardous waste, not in satellite accumulation, in the xylene recovery area and failed to post signs with the legend, "Danger--Unauthorized Personnel Keep Out" at each entrance to the area.

(i) Pursuant to 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.

At the time of the CEI, Ruskin failed to provide for review copies of all manifests for the past three years.

(j) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(viii), container storage areas must meet the containment requirements of 335-14-6-.09(6).

Ruskin stored liquid hazardous waste, not in satellite accumulation, in the xylene recovery area and failed to meet the containment requirements of 335-14-6-.09(6).

(k) Pursuant to ADEM Admin. Code r. 335-14-17-.03(4)(a)1., a container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

Ruskin failed to keep closed one 55-gallon container of used oil located in the metalworking area.

(l) Pursuant to ADEM Admin. Code r. 335-14-17-.03(4)(c)1., containers and used oil tanks, except underground tanks, used to store used oil at used oil generator locations must be labeled or marked clearly with the words "Used Oil".

Ruskin failed to mark or label one 55-gallon container of used oil located in the metalworking area with the words "Used Oil".

5. On April 15, 2022, the Department issued a Notice of Violation to Ruskin, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On May 19, 2022, the Department received Ruskin'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) **STANDARD OF CARE:** In considering the standard of care manifested by Ruskin, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Ruskin 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 Ruskin 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: Based on a review of Department records, Ruskin does not have a history of similar violations.

(f) ABILITY TO PAY: The Department does not have any evidence indicating that Ruskin is unable 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 Ruskin'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. Ruskin neither admits nor denies the Department's contentions. Ruskin 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, Ruskin, 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. The Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and Ruskin agree to enter into this Special Order by Consent with the following terms and conditions:

A. Ruskin agrees to pay to the Department a civil penalty in the amount of \$14,080 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. Ruskin 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 Ruskin's name and address, and the ADEM Administrative Order number of this action.

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

D. The Department and Ruskin ("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. Ruskin 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, Ruskin 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 actions as may be appropriate. Ruskin agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Special Order by Consent if future orders, litigation, or other enforcement actions 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 Ruskin 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 Ruskin'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 Ruskin of its obligations to comply in the future with any permit.

**Executed in duplicate, with each part being an original.**

**RUSKIN COMPANY INC.**

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Javier Lujan  
(Signature of Authorized Representative)

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Lance R. LeFleur  
Director

Javier Lujan  
(Printed Name)

Acting Plant Manager  
(Printed Title)

August 9th 2022  
(Date Signed)

\_\_\_\_\_  
(Date Executed)

**Attachment A**

Ruskin Company Inc.  
Geneva, Geneva County  
Facility ID No. ALD031612732

<b>Violation</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violation*</b>
Failure to provide a hazardous waste determination on waste generated at the facility	1	\$500	\$250	\$0
Failure to keep satellite accumulation containers of hazardous waste closed	1	\$200	\$100	\$0
Failure to mark satellite accumulation containers of hazardous waste with the words "Hazardous Waste"	1	\$200	\$100	\$0
Failure to mark satellite accumulation containers of hazardous waste with an indication of the hazards	1	\$200	\$100	\$0
Failure to mark satellite accumulation containers of hazardous waste with accumulation start dates within three days of exceeding 55 gallons	1	\$200	\$100	\$0
Storage of hazardous waste without a permit	1	\$10,000	\$1,000	\$0
Failure to prevent unknowing entry into the hazardous waste storage areas	1	\$1,000	\$500	\$0
Failure to post required "Danger--Unauthorized Personnel Keep Out" signs	1	\$200	\$100	\$0

Failure to provide for review all manifests for the previous three years	1	\$500	\$250	\$0	
Failure to meet secondary containment standards	1	\$1,000	\$500	\$0	
Failure to keep containers of used oil closed	1	\$200	\$100	\$0	
Failure to mark containers of used oil with the words "Used Oil"	1	\$200	\$100	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$14,400	\$3,200	\$0	\$17,600

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$17,600
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$3,520
Ability to Pay (-)	\$0	<b>FINAL PENALTY</b>	\$14,080
Other Factors (+/-)	-\$3,520		

Footnotes

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