

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Sejong Alabama, LLC
Fort Deposit, Lowndes County, Alabama
EPA ID NUMBER ALR000058180**

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 Sejong Alabama, LLC (hereinafter "Sejong Alabama") 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. Sejong Alabama, LLC (hereinafter "Sejong Alabama"), a foreign limited liability company, owns and operates a facility that manufactures exhaust systems for the automotive industry with EPA Identification Number ALR000058180, located at 450 East Old Fort Road in Fort Deposit, Lowndes County, Alabama. Sejong Alabama, 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)151., 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 March 21, 2016, representatives 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 Sejong Alabama. The CEI and a review of Sejong Alabama's compliance showed the following violations:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(b), a large quantity generator who accumulates 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 of the 90-day period. ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "storage" of any "hazardous waste" as identified or listed in Chapter 335-14-2.

Sejong Alabama stored hazardous waste on-site for greater than 90 days without first obtaining a storage facility permit or requesting an extension to the accumulation limit from the Department. Specifically, Sejong Alabama stored one box of hazardous waste fluorescent lamps (D009), located in the Breezeway, from September 1, 2015, a total of 203 days and two 55-gallon containers of chromium-containing dust (D007), located at the idled "UD" Baghouse, from December 14, 2015, a total of 99 days. Sejong Alabama neither requested an extension of the 90-day limit nor obtained a hazardous waste storage facility permit from the Department.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(c)2., a generator who accumulates hazardous waste in excess of 55 gallons at or near any point of generation must, with respect to that amount of waste, comply within three days with the applicable provisions of 335-14-3-.03(5)(a). During the three day period, the generator must continue to comply with 335-14-3-.03(5)(c)1.(i) and (ii) and mark the container holding the 55 gallons of hazardous waste with the date that amount was reached.

Sejong Alabama accumulated more than 55 gallons of hazardous waste at each of its four active baghouses and failed to mark the containers holding that amount of hazardous waste with the date that amount was reached.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(c)1.(i) referencing 335-14-6-.09(2), if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of 335-14-6.

Sejong Alabama stored chromium-containing dust (D007) in containers that were not in good condition. Four 55-gallon hazardous waste drums located at the "LFA", "UD", and "WCC1" Baghouses had severely rusted covers/lids or bodies.

(d) 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)(a), provided that the containers are marked either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

Sejong Alabama did not mark one 55-gallon satellite drum containing chromium dust (D007) located at the "Rework" Baghouse and one satellite drum holding spent paint pens (D001) located in the Breezeway with either the words "Hazardous Waste" or with other words describing the contents.

(e) Pursuant to ADEM Admin. Code r. 335-14-11-.02(5)(a), universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)", or "Waste Battery(ies)", or "Used Battery(ies)".

Sejong Alabama did not mark a container holding four universal waste lead acid emergency lighting batteries stored in the Breezeway with any one of the prescribed phrases.

(f) Pursuant to ADEM Admin. Code r. 335-14-11-.02(5)(e), each lamp or a container or package in which the lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

Sejong Alabama did not mark six boxes containing universal waste lamps located in the Breezeway with any one of the prescribed phrases.

(g) 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.

Sejong Alabama did not keep closed five boxes containing universal waste lamps located in the Breezeway.

(h) Pursuant to ADEM Admin. Code r. 335-14-11-.02(6)(c), a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

Sejong Alabama was unable to demonstrate the length of time that universal wastes had been accumulated on-site from the date(s) they became wastes.

(i) 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".

Sejong Alabama did not mark one 55-gallon, open-top drum holding used oil-saturated sorbents located in the Maintenance Area with the words "Used Oil"; the drum was marked with the words "Oily Hazardous Waste".

(j) 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.

Sejong Alabama did not notify the Department of its regulated waste activity between October 24, 2014 and March 21, 2016.

(k) Pursuant to ADEM Admin. Code r. 335-14-3-.04(1)(e), a generator who transports hazardous waste or offers hazardous waste for transportation off-site must have a program in place to reduce the volume and toxicity of such waste to the degree determined by the generator to be economically practicable. A generator must document this program in a written waste minimization plan.

Sejong Alabama did not have a written waste minimization plan.

(l) 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.

Sejong Alabama did not prepare and submit to the Department a 2015 Hazardous Waste (Biennial) Report by March 1.

(m) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)1(i) referencing 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; and must note the number and capacity of hazardous waste containers present; and must document these inspection in accordance with rule 335-14-6-.02(6)(d). ADEM Admin. Code r. 335-14-6-.02(6)(d) requires the generator to record inspection in an inspection log or summary.

Sejong Alabama did not document the required inspections of areas where hazardous waste containers were stored.

(n) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)4. referencing 335-14-6-.02(7)(d), the generator must maintain the following documents and records at the facility:

- i. Job titles for the positions related to hazardous waste management and the name of employees filling each job title;
- ii. A written job description for the positions related to hazardous waste management, which includes the requisite skills, education or other qualifications, and duties related to hazardous waste management;
- iii. A written description of both introductory training and continuing training required for each position; and
- iv. Records that document that the required training or job experience have been given to, and completed by, facility personnel.

Sejong Alabama did not furnish for review documents or records demonstrating that it had provided its employees that handle hazardous waste with initial and/or annual hazardous waste management and emergency response training.

(o) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(a)4. referencing 335-14-6-.03(8)(b), a generator must maintain at the facility documentation of its attempts to make arrangements with local authorities that may be called upon to provide emergency service.

Sejong Alabama did not maintain documentation of its attempts to enter into agreements with local law enforcement, fire departments, hospitals, ADEM Field Operations Division emergency response teams and local emergency response agencies/teams.

5. As a result of this CEI, the Department issued to Sejong Alabama a Notice of Violation (dated July 5, 2016), which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On August 4, 2016, the Department received Sejong Alabama's response to the aforementioned 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 the civil penalty assessed in this Order, 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 Sejong Alabama, the Department noted that the violations noted above were non-technical in nature and easily avoidable. Consequently, Sejong Alabama 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 Sejong Alabama 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, Sejong Alabama does not have a documented history of noncompliance with respect to ADEM Admin. Code div. 335-14.

(f) THE ABILITY TO PAY: Sejong Alabama 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 Sejong Alabama'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. Sejong Alabama is thankful for all the help and understanding of ADEM staff. We have taken each item and developed corrective actions that will ensure we remain in compliance. Sejong Alabama has also been recertified to ISO 14001 since these items were addressed by ADEM. Sejong Alabama will continue to strive on creating the smallest environmental footprint as possible.

10. Sejong Alabama neither admits nor denies the Department's contentions. Sejong Alabama 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, Sejong Alabama, 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 Sejong Alabama agree to enter into this Special Order by Consent with the following terms and conditions:

A. Sejong Alabama agrees to pay to the Department a civil penalty in the amount of \$12,500 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. Sejong Alabama 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 Sejong Alabama's name and address, and the ADEM Administrative Order number of this action.

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

Executed in duplicate, with each part being an original.

SEJONG ALABAMA, LLC

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

Lance R. LeFleur
Director

Blake L. Miley

(Printed Name)

EHS Manager

(Printed Title)

11/29/16

(Date Signed)

(Date Executed)

Attachment A

**Sejong Alabama, LLC
Fort Deposit, Lowndes County
Facility ID No. ALR000058180**

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*
Storage of hazardous waste for greater than 90 days without first obtaining a permit.	1	\$10,000	\$1,000	\$0
Failure to mark four satellite containers in excess of 55 gallons with the accumulation start date(s).	4	\$400	\$100	\$0
Storage of hazardous waste in four drums that were not in good condition.	4	\$800	\$400	\$0
Failure to mark two satellite drums with either the words "Hazardous Waste" or with other words describing the contents.	2	\$200	\$100	\$0
Failure to mark one box of universal waste batteries as required.	1	\$100	\$100	\$0
Failure to mark six boxes of universal waste lamps as required.	6	\$600	\$100	\$0
Failure to keep closed five boxes of universal waste lamps.	5	\$500	\$100	\$0
Failure to demonstrate the length of time universal wastes had been accumulated.	1	\$100	\$100	\$0
Failure to mark one drum holding oil-saturated sorbents with the words "Used Oil".	1	\$100	\$100	\$0
Failure to make annual notification to the Department.	1	\$200	\$100	\$0
Failure to have a written waste minimization plan.	1	\$100	\$100	\$0

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
Failure to submit a Hazardous Waste (Biennial) Report for activities conducted in 2015.	1	\$100	\$100	\$0	
Failure to conduct or document weekly inspections of the areas where hazardous waste was stored.	1	\$1,000	\$500	\$0	
Failure to provide and document hazardous waste management and emergency response training.	1	\$1,000	\$500	\$0	
Failure to document agreements with local law enforcement, fire departments, hospitals, and other State and local emergency response agencies/teams.	1	\$100	\$100	\$0	
TOTAL PER FACTOR		\$15,300	\$3,500	\$0	Total of Three Factors \$18,800

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$0
Total Adjustments (+/-) <i>Enter at Right</i>	(\$6,300)

Economic Benefit (+)	\$0
Amount of Initial Penalty	\$18,800
Total Adjustments (+/-)	(\$6,300)
FINAL PENALTY	\$12,500

Footnotes

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