

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**United Plating Beechmont  
Huntsville, Madison County, Alabama  
USEPA ID NUMBER ALD983166042**

Consent Order No. 21-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 United Plating Beechmont (“United Plating”) 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 (“AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

**STIPULATIONS**

1. United Plating operates a painting and electroplating facility (“Facility”) with EPA Identification Number ALD983166042, located at 5015 Beechmont Drive in Huntsville, Madison County, Alabama. United Plating, 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 30, 2020, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection (hereinafter "CEI") of United Plating. The CEI and a review of United Plating's compliance showed the following:

- (a) Under ADEM Admin. Code r. 335-14-8-.01(1)(c), the AHWMMMA requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Chapter 335-14-2. In pertinent part, ADEM Admin. Code r. 335-14-3-.01(7)(a) provides that a large quantity generator may accumulate hazardous waste in tanks without a permit for no more than 90 days.

United Plating stored hazardous waste on-site for more than 90 days in hazardous waste storage tanks without requesting an extension to the 90-day period or without having obtained a hazardous waste storage facility permit. United Plating captured spills of plating wastes in secondary containment systems located in Building #5 and in Building #8 and failed to conduct timely removal of these wastes, thereby operating the secondary containment systems as hazardous waste storage tanks. United Plating thus failed to meet the conditional exclusions applicable to storage of hazardous waste in a tank by a large quantity generator.

- (b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2., referencing ADEM Admin. Code r. 335-14-6-.10(3)(a), owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a qualified professional engineer in accordance with 335-14-8-.02(2)(d), attesting that



the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

United Plating failed to have the required written assessment for the hazardous waste storage tank in Building #5.

- (c) Pursuant to ADEM Admin. Core r. 335-14-3-.01(7)(a)2., referencing ADEM Admin. Code r. 335-14-6-.10(6)(b)2., in pertinent part, a large quantity generator must inspect, at least once each operating day, aboveground portions of the tank system, if any, to detect corrosion or releases of waste.

United Plating failed to conduct certain daily inspections of the hazardous waste storage tank in Building #5.

- (d) Pursuant to the pertinent part of ADEM Admin. Core r. 335-14-3-.01(7)(a)10., the 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.

United Plating stored hazardous waste, not in satellite accumulation, in an area at the facility that failed to adequately restrict access. Two 300-gallon totes of plating waste from Building #9 were stored in Building #5 prior to being processed through the waste water treatment unit.

- (e) Pursuant to ADEM Admin. Core r. 335-14-3-.01(7)(a)5.(i), a large quantity generator must mark or label its containers with the words "Hazardous Waste" and the EPA hazardous waste number, an indication of the hazardous of the contents, and the date upon which each period of accumulation begins clearly visible for inspection on each container.

United Plating failed to mark or label two 300-gallon totes of hazardous waste stored in Building #5 with the words "Hazardous Waste", an indication of the hazards of the contents, and accumulation start dates.

- (f) Pursuant to ADEM Admin. Core r. 335-14-3-.01(7)(a)1.(v), at least weekly, the large quantity generator must inspect the central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. The large quantity generator must record inspections in an inspection log or summary. He must keep these records for at least three years from the date of the inspection. 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.

United Plating failed to conduct or document weekly inspections of the area in Building #5 where two 300-gallon totes of hazardous waste were stored.

- (g) Pursuant to the pertinent part of ADEM Admin. Core r. 335-14-3-.01(5)(a)4., a satellite accumulation container holding hazardous waste must be closed at all times unless adding or removing, or consolidating waste.

United Plating failed to keep closed two satellite accumulation containers located in Building #5 and one satellite accumulation container located in Building #8.

- (h) Pursuant to ADEM Admin. Core r. 335-14-3-.01(5)(a)5., satellite accumulation containers must be labeled with the words "Hazardous Waste" and an indication of the hazards of the contents.

United Plating failed to mark or label with the words "Hazardous Waste" and an indication of the hazards of the contents two satellite accumulation containers located in Building #5 and one satellite accumulation container located in Building #8.

5. On August 21, 2020, the Department issued a Notice of Violation to United Plating, which cited violations of the hazardous waste regulations that were discovered during the CEI.



6. On October 14, 2020, the Department received United Plating'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 violation(s) 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 United Plating, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, United Plating 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 United Plating 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, United Plating has no history of previous violations.

(f) THE ABILITY TO PAY: United Plating 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 United Plating'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. United Plating neither admits nor denies the Department's contentions. United Plating 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, United Plating, 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 United Plating agree to enter into this Special Order by Consent with the following terms and conditions:

A. United Plating agrees to pay to the Department a civil penalty in the amount of \$21,760 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. United Plating 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 United Plating's name and address, and the ADEM Administrative Order number of this action.

C. That, within 30 days of the effective date of this Order, United Plating shall submit documentation demonstrating that the secondary containment systems located in Building #5 and in Building #8 have been evaluated for structural integrity, including any evidence of cracks, gaps, failure, or releases to the environment from said systems. This documentation must include any corrective actions implemented for the units.

D. That, within 30 days of the effective date of this Order, United Plating shall submit a written assessment reviewed and certified by a qualified professional engineer in accordance with 335-14-8-.02(2)(d), attesting that the tank system in Building #5 has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

E. United Plating agrees that, independent of this Special Order by Consent, United Plating 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.

F. The Department and United Plating (“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.

G. 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.

H. United Plating agrees that it is not relieved from any liability if it fails to comply with any provision of this Special Order by Consent.

I. For purposes of this Special Order by Consent only, United Plating 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.

J. 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; United Plating 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.

K. 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 United Plating does hereby waive any hearing on the terms and conditions of this Special Order by Consent.

L. The parties agree that this Special Order by Consent shall not affect United Plating's obligation to comply with any federal, State, or local laws or regulations.

M. 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.

N. 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.

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

P. 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 United Plating of its obligations to comply in the future with any permit.

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

**UNITED PLATING BEECHMONT**

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

  
\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

*Michael E Funn*  
\_\_\_\_\_  
(Printed Name)

*President*  
\_\_\_\_\_  
(Printed Title)

*11/26/21*  
\_\_\_\_\_  
(Date Signed)

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

**Attachment A**  
 United Plating Beechmont  
 Huntsville, Madison County  
 Facility ID No. ALD983166042

<b>Violation</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violation*</b>	
Accumulation of hazardous waste for more than 90 days without obtaining an extension or a hazardous waste storage permit	2	\$20,000	\$2,000	\$0	
Failure to provide documentation of tank integrity assessments for one hazardous waste tank	1	\$500	\$100	\$0	
Failure to conduct or document daily inspections of one hazardous waste tank	1	\$1,000	\$100	\$0	
Failure to prevent unknowing entry into a hazardous waste central accumulation area	1	\$1,000	\$500	\$0	
Failure to mark two hazardous waste containers in storage with the words "Hazardous Waste", an indication of the hazards, and accumulation start dates	1	\$200	\$100	\$0	
Failure to conduct or document weekly inspections on the area in Building #5 where two 300-gallon totes were stored	1	\$1,000	\$100	\$0	
Failure to keep closed three hazardous waste satellite accumulation containers	1	\$200	\$100	\$0	
Failure to mark or label as required three hazardous waste satellite accumulation containers	1	\$200	\$100	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$24,100	\$3,100	\$0	\$27,200

Adjustments to Amount of Initial Penalty

Mitigating Factors (-)	\$0	Economic Benefit (+)	\$0
Ability to Pay (-)	\$0	Amount of Initial Penalty	\$27,200
Other Factors (+/-)	\$0	Total Adjustments (+/-)	(\$5,440)
<b>Total Adjustments (+/-) Enter at Right</b>	<b>(\$5,440)</b>	<b>FINAL PENALTY</b>	<b>\$21,760</b>

Footnotes

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