

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Kasai North America, Inc. (formerly M-Tek, Inc.)
Talladega, Talladega County, AL
EPA Identification Number ALR000054486**

Consent Order No. 16-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 Kasai North America, Inc. (formerly M-Tek, Inc.)(hereinafter “Kasai” or “the Facility”) 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. Kasai owns and operates an automotive component manufacturing facility with EPA Identification Number ALR000054486 located at 50 Homer Road in Talladega, Talladega County, Alabama. At all times relevant to these findings, Kasai was a small quantity generator of hazardous waste, a small quantity handler of universal waste, and a used oil generator.
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), as amended, 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 August 31, 2015, a representative of the Department conducted a compliance evaluation inspection (hereinafter "CEI") of Kasai to determine compliance with all applicable requirements of Division 14 of the ADEM Administrative Code. Based on the CEI and a review of Kasai's compliance, the Department determined that the following violations were in existence at the time of the CEI:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(g), a small quantity generator who accumulates hazardous waste in quantities exceeding 6,000 kilograms or accumulates hazardous waste for more than 180 days is an operator of a storage facility and is subject to the requirements of ADEM Admin. Code ch. 335-14-5, and the permit requirements of ADEM Admin. Code ch. 335-14-8. ADEM Admin. Code r. 335-14-8-.01(c) requires a permit for the storage of any hazardous waste as identified or listed in ADEM Admin. Code ch. 335-14-2.

Kasai accumulated hazardous waste on-site for more than 180 days without complying with the standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities, including the requirement to obtain an AHWMMMA permit from the Department. A review of facility records revealed that Kasai did not ship any hazardous wastes it generated off-site to a permitted hazardous waste treatment, storage, or disposal facility during the period between March 20, 2014 and June 4, 2015. Kasai has not obtained a hazardous waste storage facility permit from the Department.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(e) referencing ADEM Admin. Code r. 335-14-3-.03(5)(c)1.(i) referencing ADEM Admin. Code r. 335-14-6-.09(4)(a), a generator may accumulate as much as 55 gallons of hazardous waste at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit, provided that the container holding hazardous waste is always closed during storage, except when it is necessary to add or remove waste. Kasai did not keep closed one metal 55-gallon drum of waste solvents (D001, D035, and F005) staged in the 180-day hazardous waste storage area.

(c) Pursuant to ADEM Admin. Code r. 335-14-11-.02(4)(d)1., a small quantity handler of universal waste lamps 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. Kasai did not keep closed two cardboard boxes containing universal waste lamps.

(d) Pursuant to ADEM Admin. Code r. 335-14-11-.02(5)(e), each lamp or a container or package in which lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Lamp(s)", "Waste Lamp(s)", or "Used Lamp(s)". Kasai did not label two cardboard boxes containing universal waste lamps with any of the prescribed phrases.

(e) 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". Kasai did not label one plastic 300-gallon tote, one plastic 250-gallon tote, and one metal 55-gallon drum containing used oil with the words "Used Oil".

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)2. referencing ADEM Admin. Code r. 335-14-6-.09(5), a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit, provided that he inspects areas where containers are stored at least weekly and documents these inspections in accordance with 335-14-6-.02(6)(d).

A review of facility records revealed that Kasai did not perform weekly inspections of the 180-day hazardous waste storage area.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)6.(iii), a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit, provided that employees complete an initial training program in hazardous waste management within six months after the date of their employment or assignment to a new

position, whichever is later. Employees must not work in unsupervised positions until they have completed the training requirements of 335-14-6-.02(7)(b).

A review of facility records revealed that Kasai did not provide its employees with initial hazardous waste management training.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.01(4)(a), a small 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. Kasai did not submit an ADEM Form 8700-12 to the Department in 2014.

5. As a result of the CEI, the Department issued to Kasai a Notice of Violation (hereinafter "NOV"), dated October 21, 2015, citing violations of hazardous waste regulations.

6. On December 10, 2015, the Department received Kasai's response to the aforementioned NOV. In its response, Kasai confirmed the following:

- Kasai did not ship any hazardous wastes off-site to a permitted hazardous waste treatment, storage, or disposal facility during the period between March 20, 2014 and June 4, 2015;
- Kasai did not perform weekly inspections of the 180-day hazardous waste storage area; and
- Kasai did not provide its employees with initial hazardous waste management training.

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.

8. In arriving at the civil penalty assessed in this Order, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATIONS:** The Department noted twelve violations of ADEM Admin. Code div. 335-14. 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 Kasai, the Department noted that the violations listed above were non-technical and easily avoidable. Consequently, Kasai 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 conferred upon Kasai 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, Kasai does not have a documented history of noncompliance with the requirements of ADEM Admin. Code div. 335-14.

(f) **THE ABILITY TO PAY:** The Department does not have any evidence indicating that Kasai is unable to pay the civil penalty.

(g) **OTHER FACTORS:** It should be noted that this Consent Order 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 Department's Contentions).

9. The Department neither admits nor denies Kasai'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 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 Consent Order are in the best interest of the citizens of Alabama.

KASAI'S CONTENTIONS

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

11. It is our environmental policy, that in the course of all phases of manufacturing automotive interiors for our customers, Kasai is committed to continually developing and improving methods and policies that result in meeting or exceeding environmental objectives relating to pollution prevention, regulatory, legal and Kasai requirements, recycling of materials and waste, and resource conservation.

In regards to this agreement, we will continue to do all that we can to "assure for all citizens of the State a safe, healthful, and productive environment".

ORDER

Therefore, without admitting that it has violated any statutes or regulations, Kasai, 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 Kasai agree to enter into this Special Order by Consent with the following terms and conditions:

A. Kasai agrees to pay to the Department a civil penalty in the amount of \$12,000.00 in settlement of the violations alleged herein within forty-five days of the effective date of this Consent Order. 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. Kasai 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 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 Consent Order shall reference Kasai's name and address, and the ADEM Administrative Order number of this action.

C. Kasai agrees that, independent of this Consent Order, Kasai 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 Kasai (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 alleged violations cited herein.

F. Kasai 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, Kasai 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 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; Kasai agrees not to 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 Kasai does hereby waive any hearing on the terms and conditions of this Consent Order.

J. The parties agree that this Consent Order shall not affect Kasai'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 that any modifications of this Consent Order must be agreed to in writing signed by both parties.

N. The parties 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 Kasai of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

**KASAI NORTH AMERICA, INC. (FORMERLY
M-TEK, INC.)**

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**



(Signature of Authorized Representative)

Dale Grant

(Printed Name)

Plant Manager

(Printed Title)

5/19/16

(Date Signed)

Lance R. LeFleur
Director

(Date Executed)

Attachment A

**Kasai North America, Inc. (formerly M-Tek, Inc.)
Talladega, Talladega County
EPA Identification Number ALR000054486**

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Storage of hazardous wastes for greater than 180 days	1	\$10,000	\$1,000	\$0	
Failure to keep closed a container of hazardous waste	1	\$100	\$100	\$0	
Failure to keep closed containers of universal waste lamps	2	\$200	\$100	\$0	
Failure to label containers of universal waste lamps	2	\$200	\$100	\$0	
Failure to label containers of used oil	3	\$300	\$100	\$0	
Failure to perform weekly inspections of the 180-day storage area	1	\$1,000	\$1,000	\$0	
Failure to provide employees with hazardous waste management training	1	\$1,000	\$1,000	\$0	
Failure to submit ADEM Form 8700-12 to the Department	1	\$150	\$0	\$0	Total of Three Factors
TOTAL PER FACTOR		\$12,950	\$3,400	\$0	\$16,350

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	- \$4,350
Total Adjustments (+/-)	- \$4,350

Economic Benefit (+)*	\$0
Amount of Initial Penalty	\$16,350
Total Adjustments (+/-)	- \$4,350
FINAL PENALTY	\$12,000

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