

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Advanced Technical Finishing, LLC  
Huntsville, Madison County, Alabama  
USEPA ID NUMBER ALD059903641**

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 Advanced Technical Finishing, LLC (“Advanced”) 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. Advanced operates an electroplating and metal finishing facility with EPA Identification Number ALD059903641, located at 1003 Orchard Street Northwest in Huntsville, Madison County, Alabama. Advanced, 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 January 13, 2021, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection of Advanced. That inspection and a review of Advanced's compliance showed the following:

- (a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10., a large quantity generator must prevent unknowing entry into the central accumulation area.

Advanced accumulated hazardous waste, not in satellite accumulation, in areas at the facility that failed to adequately restrict access. Hazardous waste was stored at the Good Chemical Storage Area and the 90-Day Hazardous Waste Storage area, and Advanced failed to adequately prevent unauthorized entry.

- (b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(vi)b., "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

Advanced failed to post "No Smoking" signs around hazardous waste accumulated in the Good Chemical Storage Area and the 90-Day Hazardous Waste Storage Area.

- (c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(ii), a sign with the legend, "Danger--Unauthorized Personnel Keep Out", must be posted at each entrance to the central accumulation area, and at other locations, in sufficient numbers to be seen from any approach. The legend must be written in English and in any other language predominant in the workplace and the area surrounding the facility, and

must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger—Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

Advanced failed to post the required signage around hazardous waste accumulated in the Good Chemical Storage Area and the 90-Day Hazardous Waste Storage Area.

- (d) Pursuant to ADEM Admin. Code r. 335-14-3-01(7)(a)5.(i)a., a large quantity generator must mark or label its containers with the words "Hazardous Waste".

Advanced failed to label the following containers of hazardous waste with the words "Hazardous Waste":

- Three 250-gallon totes and two super-sacks located in the Good Chemical Storage Area.
- Three 55-gallon drums located at the in the 90-Day Hazardous Waste Storage Area.

- (e) Pursuant to ADEM Admin. Code r. 335-14-3-01(7)(a)5.(i)b., a large quantity generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Advanced failed to label the following containers of hazardous waste with an identification of hazards:

- Three 250-gallon totes and two super-sacks located in the Good Chemical Storage Area.
- Three 55-gallon drums located at the in the 90-Day Hazardous Waste Storage Area.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i)c., a large quantity generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

Advanced failed to mark the following containers of hazardous waste with accumulation start dates:

- Three 250-gallon totes and two super-sacks located in the Good Chemical Storage Area.
- Three 55-gallon drums located at the in the 90-Day Hazardous Waste Storage Area.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(8)(d)1., a large quantity generator or 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. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at 335-14-1-.02(1)(a).

Advanced failed to submit an 8700-12 Form for 2019 based on a review of Department records.

(h) 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.

Advanced failed to provide manifests for 2019 and 2020 for review.

- (i) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(v), at least weekly, the large quantity generator must inspect 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 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.

Advanced failed to conduct and document weekly inspections of the following hazardous waste accumulation areas:

- Good Chemical Storage Area
- 90-Day Hazardous Waste Storage Area

- (j) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(i)a, facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with 335- 14-3. The large quantity generator must ensure that this program includes all the elements described in the document required under 335-14-3-.01(7)(a)7.(iv).

Advanced failed to provide the required training for an employee that handles hazardous waste.

- (k) Pursuant to ADEM Admin. Code r. 335-14-3-.02(7)(a), a large quantity generator who initiates a shipment of hazardous waste must certify to the following

statements in Item 15 of the uniform hazardous waste manifest: "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment."

Advanced failed to provide a waste minimization plan for review.

- (l) Pursuant to ADEM Admin. Code r. 335-14-3-.14(9)(d), the required contingency plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see 335-14-3-.14(12)), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

Advanced failed to maintain up-to-date information in the facility contingency plan. Advanced's emergency contact list contained employees who were no longer employed at the facility.

- (m) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(a), a large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., law enforcement agencies, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services).

Advanced failed to provide documentation that the facility's contingency plan and all revisions had been sent to all local emergency responders.

- (n) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(iv)a., the large quantity generator must maintain the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

Advanced failed to provide for review the job title for each position that manages hazardous waste.

- (o) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(iv)b., the large quantity generator must maintain a written job description for each position listed under 335-14-3-.01(7)(a)7.(iv)b. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

Advanced failed to provide for review the job description for each position that manages hazardous waste.

- (p) Pursuant to ADEM Admin. Code r. 35-14-3-.01(7)(a)7.(iv)c., the large quantity generator must maintain a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under 335-3-.01(7)(a)7.(iv)a.

Advanced failed to provide a written description of the type and amount of training that will be given to each person that manages hazardous waste.

5. On February 8, 2021, the Department issued a Notice of Violation to Advanced, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On March 12, 2021, the Department received Advanced'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 Advanced, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Advanced 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 Advanced 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, Advanced has a history of previous violations and the penalty reflects that history.



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

A. Advanced agrees to pay to the Department a civil penalty in the amount of \$9,600 in settlement of the violations alleged herein within one hundred eighty of the effective date of this Special Order by Consent. Failure to pay the civil penalty within one hundred eighty 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. Advanced 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 Advanced's name and address, and the ADEM Administrative Order number of this action.

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

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

**ADVANCED TECHNICAL FINISHING LLC**

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Spencer Mitchell  
(Signature of Authorized Representative)

Spencer Mitchell  
(Printed Name)

General Manager  
(Printed Title)

6-22-2021  
(Date Signed)

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

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

**Attachment A**

Advanced Technical Finishing, LLC  
 Huntsville, Madison County  
 Facility ID No. ALD059903641

<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 prevent unknowing entry into the central accumulation area	1	\$1,000	\$500	\$500
Failure to post "No Smoking" signs wherever there is a hazard from ignitable or reactive waste	1	\$250	\$100	\$0
Failure to post "Danger--Unauthorized Personnel Keep Out" signs at each entrance to the central accumulation area	1	\$250	\$100	\$100
Failure to mark containers with the words "Hazardous Waste"	1	\$250	\$100	\$100
Failure to mark containers with an indication of the hazards of the contents	1	\$250	\$100	\$0
Failure to mark containers with an accumulation start date	1	\$250	\$100	\$100
Failure to submit a correct and complete ADEM Form 8700-12 annually	1	\$250	\$125	\$125
Failure to maintain copies of all signed returned to generator manifests	1	\$1,000	\$500	\$500
Failure to conduct weekly inspections of all hazardous waste accumulation areas	1	\$1,000	\$500	\$500
Failure to ensure that personnel complete required training before handling hazardous waste	1	\$1,000	\$500	\$500
Failure to provide a waste minimization plan for review	1	\$100	\$50	\$0
Failure to update the emergency contact list	1	\$100	\$100	\$100

Failure to submit a copy of the contingency plan to all local emergency responders	1	\$200	\$100	\$100	
Failure to maintain the job title for each position and the name of the employee filling each job	1	\$100	\$100	\$0	
Failure to maintain a written job description for each position that handles hazardous waste	1	\$100	\$100	\$0	
Failure to maintain a written description of the type and amount of training needed	1	\$100	\$100	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$6,200	\$3,175	\$2,625	\$12,000

Adjustments to Amount of Initial Penalty

Mitigating Factors (-)	\$0	Economic Benefit (+)	\$0
Ability to Pay (-)	\$0	Amount of Initial Penalty	\$12,000
Other Factors (+/-)	(\$2,400)	Total Adjustments (+/-)	(\$2,400)
<b>Total Adjustments (+/-) Enter at Right</b>	<b>(\$2,400)</b>	<b>FINAL PENALTY</b>	<b>\$9,600</b>

Footnotes

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