

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Process Equipment, Inc. DBA Process Barron
Pelham, Shelby County, Alabama
USEPA Identification Number AL0000028811**

Consent Order No. 24-XXX-CHW

PREAMBLE

This Consent Order is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and Process Equipment, Inc. DBA Process Barron (“Process Barron”) 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. Process Barron operates an industrial fan manufacturing and repair facility (the “Facility”) with EPA Identification Number AL0000028811, located at 2770 Welborn Street in Pelham, Shelby County, Alabama. Process Barron, as a result of its operations at the Facility, was a small quantity generator of hazardous waste, as 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 AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

DEPARTMENT'S CONTENTIONS

4. On February 2, 2024, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Process Barron. The CEI and a review of Process Barron's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(1)(a)3., a generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in 335-14-1-.02, or not otherwise authorized to receive the generator's hazardous waste.

Process Barron sent hazardous waste [solvent contaminated personal protective equipment (PPE)] for disposal to a facility that was not a designated facility or otherwise authorized to receive the waste.

(b) 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.

Process Barron failed to make a proper waste determination on solvent contaminated PPE generated at the facility. Process Barron failed to accurately characterize this waste and subsequently managed it as non-hazardous waste. Additionally, Process Barron failed to provide a waste determination for waste located under the dust collection unit at the time of the inspection.

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

Process Barron failed to mark or label three satellite accumulation containers 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.

Process Barron failed to mark or label three satellite accumulation containers with an indication of the hazards of the contents.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)6.(i)a., a small quantity generator of hazardous waste must mark or label its containers with the words "Hazardous Waste".

Process Barron failed to mark or label two 55-gallon containers of hazardous waste located in the central accumulation area with the words "Hazardous Waste".

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)6.(i)b., a small quantity generator of hazardous waste must mark or label its containers with an indication of the hazards of the contents.

Process Barron failed to mark or label seven 55-gallon containers of hazardous waste located in the central accumulation area with an indication of the hazards of the contents.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)6.(i)c., a small quantity generator of hazardous waste must mark the date upon which each period of accumulation begins clearly visible for inspection on each container.

Process Barron failed to mark seven 55-gallon containers of hazardous waste located in the central accumulation area with an accumulation start date.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.01(8)(d)1., 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. 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).

Process Barron failed to submit a complete 8700-12 to the Department for 2023.

(i) Pursuant to ADEM Admin. Code r. 335-14-3-.02(1)(a)1., a generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, or disposal facility who offers for transportation a rejected hazardous waste load, must prepare a Manifest (OMB control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A.

Process Barron failed to prepare a uniform hazardous waste manifest for each shipment of hazardous waste (i.e. solvent contaminated PPE) sent for disposal in the general trash.

5. On March 29, 2024, the Department issued a Notice of Violation to Process Barron, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On May 3, 2024, the Department received Process Barron'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 VIOLATION(S):** In determining the seriousness of the violations, 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 Process Barron, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Process Barron 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 no significant economic benefit was gained by Process Barron as a result of the violations referenced herein.

(d) EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION(S) 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, Process Barron does not have a history of similar violations.

(f) ABILITY TO PAY: The Department does not have any evidence indicating that Process Barron 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 the Department's Contentions).

8. The Department neither admits nor denies Process Barron'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 violation(s) cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violation(s). The Department has determined that the terms contemplated in this Consent Order are in the best interest of the citizens of Alabama.

PROCESS BARRON'S CONTENTIONS

9. Process Barron neither admits nor denies the Department's Contentions. Process Barron consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

Therefore, without admitting that it has violated any statutes or regulations, Process Barron, along with the Department, desires to resolve and settle the alleged violation(s) 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 violation(s) alleged herein. Therefore, the Department and Process Barron agree to enter into this Consent Order with the following terms and conditions:

A. Process Barron agrees to pay to the Department a civil penalty in the amount of \$13,000 in settlement of the violation(s) 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. Process Barron 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 Process Barron's name and address, and the ADEM Consent Order Number of this action.

C. Process Barron agrees to comply with all terms, conditions, and limitations of the AHWMMA and the regulations promulgated pursuant thereto immediately upon the effective date of this Consent Order and continuing every day thereafter.

D. The Department and Process Barron ("Parties") agree that this Consent Order shall apply to and be binding upon both parties, and both parties shall direct their directors, officers, and employees implementing this Consent Order to comply with its provisions. 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 violation(s) cited herein.

F. Process Barron 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, Process Barron 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 actions as may be appropriate. Process Barron agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Consent Order if future orders, litigation, or other enforcement actions 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 Process Barron 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 Process Barron'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 Consent 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 Process Barron of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

PROCESS EQUIPMENT, INC.
DBA PROCESS BARRON

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT


(Signature of Authorized Representative)

Lance R. LeFleur
Director

RHONDA HARRELL
(Printed Name)

EHS DIRECTOR
(Printed Title)

7/9/2024
(Date Signed)

(Date Executed)

Attachment A

Process Equipment, Inc. DBA Process Barron
 Pelham, Shelby County
 Facility ID No. AL0000028811

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*
Offering hazardous waste to a facility that is not a designated facility or otherwise authorized to receive hazardous waste	1	\$10,000	\$1,000	\$0
Failure to make a proper waste determination	1	\$1,500	\$150	\$0
Failure to mark or label satellite accumulation containers with the words "Hazardous Waste"	1	\$100	\$50	\$0
Failure to mark or label satellite accumulation containers with an indication of the hazards of the contents	1	\$100	\$50	\$0
Failure to mark or label containers of hazardous waste with the words "Hazardous Waste"	1	\$100	\$50	\$0
Failure to mark or label containers of hazardous waste with an indication of the hazards of the contents	1	\$100	\$50	\$0
Failure to mark or label containers of hazardous waste with an accumulation start date	1	\$100	\$50	\$0

Failure to submit ADEM Form 8700-12 to the Department annually	1	\$100	\$50	\$0	
Failure to prepare a uniform hazardous waste manifest for each shipment of hazardous waste	1	\$1,500	\$150	\$0	Total of Three Factors
TOTAL PER FACTOR		\$13,600	\$1,600	\$0	\$15,200

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$15,200
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$2,200
Ability to Pay (-)	\$0	FINAL PENALTY	\$13,000
Other Factors (+/-)	-\$2,200		

Footnotes

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