

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Precoat Metals Corp.
Hueytown, Jefferson County, Alabama
USEPA ID Number ALR000015826**

Consent Order No. 23-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 Precoat Metals Corp. (“Precoat Metals”) 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. Precoat Metals operates a steel coil coating facility (the “Facility”) with EPA Identification Number ALR000015826, located at 3399 Davey Allison Blvd. in Hueytown, Jefferson County, Alabama. Precoat Metals, as a result of its operations at the Facility, was a large quantity generator of hazardous waste, a small quantity handler of universal waste, and a used oil generator, as those terms are 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 January 9, 2023, representatives of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Precoat Metals. The CEI and a review of Precoat Metals' compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)4., a container holding hazardous waste must be closed at all times during accumulation, except when adding, removing, or consolidating waste.

Precoat Metals failed to keep closed one 55-gallon satellite accumulation container located in the Coating Room.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(viii), container storage areas must meet the containment requirements of 335-14-6-.09(6). ADEM Admin. Code r. 335-14-6-.09(6)(b)1. requires a base to underlie the containers which is free of cracks or gaps and sufficiently impervious to contain leaks, spills, and accumulated precipitation.

Precoat Metals failed to maintain the secondary containment system for the Central Hazardous Waste Accumulation Area free of cracks or gaps. Cracks were observed in the coating and concrete of the containment system in this area.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a), a large quantity generator may accumulate hazardous waste on site without a permit or interim status provided the generator accumulates hazardous waste on site for no more than 90 days, unless it has been granted an extension to the 90-day period. ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Chapter 335-14-2.

Precoat Metals stored hazardous waste (Hazardous Waste No. D007) in the secondary containment system of the chrome coating line for more than 90 days without a permit or an extension.

(d) 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.

Precoat Metals failed to mark or label one 55-gallon container of hazardous waste located in the Central Hazardous Waste Accumulation Area with an accumulation start date.

(e) 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.

Precoat Metals failed to provide for review records of job titles and employee names for each position engaged in hazardous waste management.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10., a 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.

Precoat Metals failed to prevent unknowing entry into the Central Hazardous Waste Accumulation Area. The gate to the waste storage building was open and unattended.

5. On January 30, 2023, the Department issued a Notice of Violation to Precoat Metals, which cited violations of the hazardous waste regulations that were discovered during the CEI and subsequent record review.

6. On March 3, 2023, the Department received Precoat Metals' 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 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 Precoat Metals, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Precoat Metals 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 Precoat Metals 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, Precoat Metals has a history of similar violations and the penalty reflects that history.

(f) ABILITY TO PAY: The Department does not have any evidence indicating that Precoat Metals is unable 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 Precoat Metals' 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. Precoat Metals neither admits nor denies the Department's contentions. Precoat Metals 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, Precoat Metals, 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. The Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and Precoat Metals agree to enter into this Special Order by Consent with the following terms and conditions:

A. Precoat Metals agrees to pay to the Department a civil penalty in the amount of \$12,000 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. Precoat Metals 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 Precoat Metals' name and address, and the ADEM Administrative Order number of this action.

C. Precoat Metals agrees that, independent of this Special Order by Consent, Precoat Metals 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 Precoat Metals ("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. Precoat Metals 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, Precoat Metals 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 actions as may be appropriate. Precoat Metals agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Special Order by Consent if future orders, litigation, or other enforcement actions 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 Precoat Metals 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 Precoat Metals' 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 is 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.

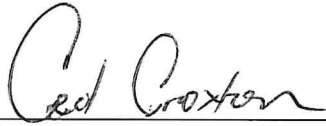
M. The parties agree that any modifications of this Special Order by Consent must be agreed to in writing signed by both parties.

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 Precoat Metals of its obligations to comply in the future with any permit.

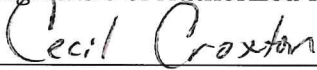
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PRECOAT METALS CORP.

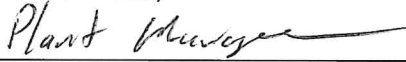
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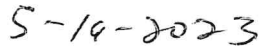
(Signature of Authorized Representative)



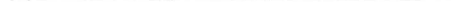
(Printed Name)




(Printed Title)



(Date Signed)


Lance R. LeFleur
Director


(Date Executed)

Attachment A

Precoat Metals Corp.
Hueytown, Jefferson County
Facility ID No. ALR000015826

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
Failure to keep satellite accumulation containers closed	1	\$200	\$100	\$100	
Failure to keep secondary containment free of cracks and gaps	1	\$1,000	\$500	\$0	
Storage of hazardous waste without a permit	1	\$10,000	\$1,000	\$0	
Failure to mark containers of hazardous waste with accumulation start dates	1	\$200	\$100	\$0	
Failure to provide written job titles	1	\$200	\$100	\$0	
Failure to prevent unknowing entry into the central hazardous waste accumulation area	1	\$1,000	\$500	\$0	Total of Three Factors
TOTAL PER FACTOR		\$12,600	\$2,300	\$100	\$15,000

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$15,000
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$3,000
Ability to Pay (-)	\$0	FINAL PENALTY	\$12,000
Other Factors (+/-)	-\$3,000		

Footnotes

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