

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Advanced Technical Finishing, LLC
Huntsville, Madison County, Alabama
USEPA Identification Number ALD059903641**

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 Advanced Technical Finishing, LLC (“ATF”) 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. ATF operates an electroplating and metal finishing facility (the “Facility”) with EPA Identification Number ALD059903641, located at 1003 Orchard Street NW in Huntsville, Madison County, Alabama. ATF, as a result of its operations at the Facility, was a large 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 November 8, 2023, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of ATF. The CEI and a review of ATF's compliance showed the following:

(a) 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.

ATF failed to make a waste determination on approximately 50 55-gallon containers of waste, two 275-gallon totes of waste, and two inactive plating tanks containing waste located in a dilapidated building on the property.

(b) 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.

ATF stored hazardous waste in the central hazardous waste accumulation area for more than 90 days without a permit and without being granted an extension to the 90-day period.

(c) 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.

ATF failed to provide for review weekly inspections of the central hazardous waste accumulation 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".

ATF failed to label twenty 55-gallon containers of hazardous waste located in the central hazardous waste accumulation area with the words "Hazardous Waste".

(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].

ATF failed to mark twenty 55-gallon containers of hazardous waste located in the central hazardous waste accumulation area with an identification of hazards of the contents.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i)d., a large quantity generator must mark or label its containers with all appropriate EPA hazardous waste numbers associated with the hazardous waste as specified in 335-14-2-.03 and 335-14-2-.04.

ATF failed to mark or label twenty 55-gallon containers of hazardous waste located in the central accumulation area with the appropriate EPA hazardous waste numbers associated with the hazardous waste.

(g) 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).

ATF failed to provide for review documentation that required training had been provided to all employees that handle hazardous waste.

(h) 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.

ATF failed to provide for review the job title for each position that handles hazardous waste.

(i) 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 335-14-6-.02(7)(d)1. 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.

ATF failed to provide for review the job description for each position that handles hazardous waste.

(j) 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.

ATF failed to provide for review a written description of the type and amount of training needed for each employee that handles hazardous waste.

(k) 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).

ATF failed to submit ADEM Form 8700-12 to the Department in 2022 and 2023.

(l) 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.

ATF failed to provide for review manifests for shipments of hazardous waste that occurred in 2022 and 2023.

(m) Pursuant to ADEM Admin. Code r. 335-14-3-.14(8)(a), a large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

ATF failed to provide for review documentation that the facility had developed a contingency plan.

(n) 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).

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

(o) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(b), a large quantity generator must submit a quick reference guide of the contingency plan to the local emergency responders or, as appropriate, the Local Emergency Planning Committee.

ATF failed to provide for review documentation that the facility had developed a quick reference guide for their contingency plan and that a copy had been sent to all local emergency responders.

5. On December 18, 2023, the Department issued a Notice of Violation to ATF, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On February 22, 2024, the Department received ATF's response to the aforementioned Notice of Violation.

7. On April 18, 2024, ATF provided to the Department a Preventative Action Plan describing the actions ATF will take to prevent recurrence of the above violations. The schedule included in the plan indicated that all corrective actions shall be taken on or before June 1, 2024.

8. 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 ATF, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, ATF 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 ATF 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, ATF has a history of similar violations and the civil penalty reflects that history.

(f) ABILITY TO PAY: The Department does not have any evidence indicating that ATF 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).

9. The Department neither admits nor denies ATF'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.

ATF'S CONTENTIONS

10. ATF neither admits nor denies the Department's Contentions. ATF consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein. Management representatives of ATF created and presented a Preventative Action Plan that was ultimately approved by the Alabama Department of Environmental Management, that addresses the root cause of the noncompliance related inquiries and prevents them from happening.

ORDER

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

A. ATF agrees to pay to the Department a civil penalty in the amount of \$22,240, according to the payment schedule described below, in settlement of the violations alleged herein. ATF shall pay this civil penalty as follows: \$4,240.00 shall be paid within six months of the effective date of this Consent Order. Following the initial payment, a minimum of \$1,000 shall be paid monthly until the remainder of the civil penalty is paid in full. Failure to pay the civil penalty within 24 months 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. ATF 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 ATF's name and address, and the ADEM Consent Order Number of this action.

C. ATF agrees to complete all corrective actions described in the Preventative Action Plan by June 1, 2024, or by the effective date of this Consent Order, whichever occurs first.

D. ATF agrees to comply with all terms, conditions, and limitations of the AHWMMMA and the regulations promulgated pursuant thereto immediately upon the effective date of this Order and continuing every day thereafter.

E. The Department and ATF ("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.

F. 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.

G. ATF agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. For purposes of this Consent Order only, ATF 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.

I. 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. ATF 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.

J. 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 ATF does hereby waive any hearing on the terms and conditions of this Consent Order.

K. The Parties agree that this Consent Order shall not affect ATF's obligation to comply with any federal, State, or local laws or regulations.

L. 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.

M. 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.

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

O. 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 ATF 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)

Lance R. LeFleur
Director

Spencer Mitchell
(Printed Name)

General Manager
(Printed Title)

5/6/2024
(Date Signed)

(Date Executed)

Attachment A

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

| Violation | Number of Violations* | Seriousness of Violation* | Standard of Care* | History of Previous Violation* |
|---|------------------------------|----------------------------------|--------------------------|---------------------------------------|
| Failure to make a proper waste determination | 1 | \$2,500 | \$250 | \$0 |
| Storage of hazardous waste for greater than 90 days without a permit | 1 | \$10,000 | \$1,000 | \$1,000 |
| Failure to conduct weekly inspections of the central hazardous waste accumulation area | 1 | \$3,000 | \$300 | \$300 |
| Failure to mark or label containers of hazardous waste with the words "Hazardous Waste" | 1 | \$600 | \$300 | \$300 |
| Failure to mark or label containers of hazardous waste with an indication of the hazards of the contents | 1 | \$400 | \$200 | \$200 |
| Failure to mark or label containers of hazardous waste with the appropriate EPA hazardous waste number(s) | 1 | \$200 | \$100 | \$0 |
| Failure to provide for review documentation that hazardous waste management training has been provided to employees | 1 | \$600 | \$300 | \$300 |

| | | | | | |
|---|---|----------|---------|---------|-------------------------------|
| Failure to provide for review the job title for each position that manages hazardous waste | 1 | \$200 | \$100 | \$100 | |
| Failure to provide for review a written job description for each position that manages hazardous waste | 1 | \$200 | \$100 | \$100 | |
| Failure to provide for review documentation of the type and amount of hazardous training required for each position | 1 | \$200 | \$100 | \$100 | |
| Failure to submit ADEM Form 8700-12 to the Department annually | 1 | \$600 | \$300 | \$300 | |
| Failure to provide for review copies of uniform hazardous waste manifests | 1 | \$2,000 | \$200 | \$200 | |
| Failure to provide a contingency plan for review | 1 | \$200 | \$100 | \$100 | |
| Failure to provide a copy of the contingency plan to all emergency responders | 1 | \$300 | \$150 | \$150 | |
| Failure to provide a quick reference guide for review | 1 | \$100 | \$50 | \$0 | Total of Three Factors |
| TOTAL PER FACTOR | | \$21,100 | \$3,550 | \$3,150 | \$27,800 |

Adjustments to Amount of Initial Penalty

| | | | |
|------------------------|----------|---------------------------|-----------------|
| Economic Benefit (+) | \$0 | Amount of Initial Penalty | \$27,800 |
| Mitigating Factors (-) | \$0 | Total Adjustments (+/-) | -\$5,560 |
| Ability to Pay (-) | \$0 | FINAL PENALTY | \$22,240 |
| Other Factors (+/-) | -\$5,560 | | |

Footnotes

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