

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:

Plasman ALA, LLC  
Fort Payne, DeKalb County, Alabama  
USEPA Identification Number ALR000049379

Consent Order No. 24-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 Plasman ALA, LLC (“Plasman”) pursuant to the provisions of the Alabama Environmental Management Act (“AEMA”), 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. Plasman operates an automotive part manufacturing facility (the “Facility”) with EPA Identification Number ALR000049379, located at 403 Airport Road West in Fort Payne, DeKalb County, Alabama. Plasman, 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 AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

DEPARTMENT'S CONTENTIONS

4. On March 6, 2023, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Plasman. The CEI and a review of Plasman's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2., a large quantity generator must comply with the applicable requirements of 335-14-6-.28, which incorporates by reference 40 CFR, Part 265, Subpart BB [including 40 CFR 264.1052 through 1057, which require, in part, the owner or operator to perform leak detection and repair monitoring].

Plasman failed to perform required leak detection and repair monitoring of certain ancillary equipment associated with the hazardous waste storage tank.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2., a large quantity generator must comply with the applicable requirements of 335-14-6-.28, which incorporates by reference 40 CFR, Part 265, Subpart BB [including 40 CFR 265.1050(c), which requires each piece of equipment subject to Subpart BB to be marked in such a manner that it can be distinguished readily from other pieces of equipment].

Plasman failed to mark all subject pieces of ancillary equipment connected to the hazardous waste storage tank.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2., a large quantity generator must comply with the applicable requirements of 335-14-6-.29, which incorporates by reference 40 CFR, Part 265, Subpart CC [including 40 CFR 265.1089(a), which requires the owner or operator to inspect and monitor air emission control equipment].

Plasman failed perform required leak detection and repair monitoring of certain tank vents connected to the hazardous waste storage tank.

(d) 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.

Plasman failed to provide hazardous waste manifests for review.

(e) 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.

Plasman failed to have “No Smoking” signs posted at the central hazardous waste accumulation area, which held ignitable waste.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(viii) referencing ADEM Admin. Code r. 335-14-6-.09(6)(a) , container storage areas must have a containment system that is designed and operated in accordance with 335-14-6-.09(6)(b), except as otherwise provided by 335-14-6-.09(6)(c).

Plasman failed to maintain an impervious coating on the floor of the central hazardous waste accumulation area.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2. referencing ADEM Admin. Code r. 335-14-6-.10(2)(a), the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by a qualified professional engineer in accordance with 335-14-8-.02(2)(d) that attests to the tanks system’s integrity.

Plasman failed to keep on file a written assessment reviewed and certified by a qualified professional engineer attesting to the integrity of the facility’s hazardous waste tank.

(h) 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”.

Plasman failed to label six 55-gallon containers of hazardous waste located in the central hazardous waste accumulation area with the words “Hazardous Waste”.

(i) 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.

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

(j) 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.

Plasman failed to provide for review the job title for each employee that handles hazardous waste at the Facility.

(k) 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)a. 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.

Plasman failed to include a description of the waste management duties personnel holding each position would be required to perform in the job descriptions for employees that handle hazardous waste at the Facility.

(l) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(iv)d., the large quantity generator must maintain records that document that the training or job experience, required under 335-14-3-.01(7)(a)7.(i) - (iii), has been given to, and completed by, facility personnel.

Plasman failed to provide records indicating that hazardous waste training was provided to employees that handle hazardous waste at the Facility.

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

Plasman failed to adequately restrict access to the central hazardous waste accumulation area.

(n) 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.

Plasman failed to post the required "Danger-Unauthorized Personnel Keep Out" signage at the central hazardous waste accumulation area.

(o) Pursuant to ADEM Admin. Code r. 335-14-3-.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 335-14-3-.01(7)(a)7.(iv)a.

Plasman failed to provide for review the Facility's hazardous waste training program.

(p) 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.

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

(q) 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.

Plasman failed to provide documentation that the Facility had developed a contingency plan.

(r) Pursuant to ADEM Admin. Code r. 335-14-3-.14(6), the large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

Plasman failed to maintain adequate aisle spacing in the central hazardous waste accumulation area to allow for the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment.

(s) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2., referencing 335-14-6-.10(6)(b)2., the owner or operator must inspect at least once each operating day aboveground portions of the tank system to detect corrosion or releases of waste.

Plasman failed to conduct required tank inspections on weekends and holidays.

5. On May 1, 2023, the Department issued a Notice of Violation to Plasman, which cited violations of the hazardous waste regulations that were discovered during the CEI and subsequent record review.

6. On May 18, 2023, the Department received Plasman's response to the aforementioned Notice of Violation.

7. On August 16, 2023, the Department received Plasman's supplemental response to the aforementioned Notice of Violation.

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 Plasman, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Plasman 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 Plasman 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, Plasman 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 Plasman 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 Plasman'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.

PLASMAN'S CONTENTIONS

10. Plasman neither admits nor denies the Department's Contentions. Plasman agrees to the entry of this Special Order by Consent in the interest of resolving this matter without delay and expense of litigation. Plasman consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

(a) Regarding Number 4(a) of Department's Contentions: Plasman contends that it only failed to demonstrate that the leak detection and repair monitoring was not performed for the time period in which the records were requested during the inspection.

(b) Regarding Number 4(b) of the Department's Contentions: Plasman contends that the required marking for the ancillary equipment had been removed to perform maintenance and that the marking observed during the inspection had not been replaced at the time of the inspection. Therefore, the absence of Subpart BB marking only applies to some of the facility's ancillary equipment and not all.

(c) Regarding Number 4(c) of the Department's Contentions: Plasman contends that it only failed to demonstrate that the leak detection and repair monitoring of certain tank vents was not performed for the time period with which the records were requested.

(d) Regarding Number 4(e), (f), (m), (n) and (r) of the Department's Contentions: Plasman contends that the facility representative misrepresented the CAA during the inspection, as the CAA cited is not the facility's designated CAA.

(e) Regarding Number 4(g) of the Department's Contentions: Plasman disagrees with the citation referenced. By definition, Plasman's operates a new tank system in accordance with ADEM Admin Code r. 335-14-1-.02 (definition #188) and is not in violation of the requirement stipulated under the Department's Contentions. Plasman contends that the correct citation for this alleged violation is ADEM Admin Code r. 335-14-6-.10(3)(g).



ORDER

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

A. Plasman agrees to pay to the Department a civil penalty in the amount of \$35,160.00 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. Plasman 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 Plasman's name and address, and the ADEM Administrative Order Number of this action.

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

D. The Department and Plasman ("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. Plasman 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, the Plasman 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. Plasman also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Plasman shall be limited to the defenses of *Force Majeure*, compliance with this Agreement, and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Plasman, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of Plasman) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of Plasman, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

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. Plasman 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 shall not be appealable, and Plasman 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 Plasman'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.

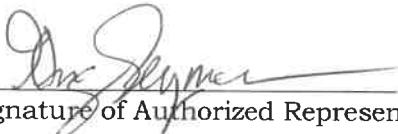
M. The Parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

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

Executed in duplicate, with each part being an original.

PLASMAN ALA, LLC

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

  
(Signature of Authorized Representative)

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

Greg Seymour  
(Printed Name)

General Manager  
(Printed Title)

10/23/23  
(Date Signed)

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

**Attachment A**

Plasman ALA, LLC  
 Fort Payne, DeKalb County  
 Facility ID No. ALR000049379

<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 perform leak detection and repair monitoring of ancillary equipment	1	\$10,000	\$2,500	\$2,500
Failure to mark ancillary equipment	1	\$2,500	\$1,250	\$1,250
Failure to perform leak detection and repair monitoring of tank vents	1	\$10,000	\$2,500	\$0
Failure to provide hazardous waste manifests for review	1	\$500	\$250	\$0
Failure to post "No Smoking" signs	1	\$200	\$100	\$0
Failure to maintain an impervious coating in the central hazardous waste accumulation area	1	\$1,000	\$500	\$500
Failure to keep on file an engineer's written assessment of a tank system's integrity	1	\$200	\$100	\$0

Failure to mark or label containers of hazardous waste with the words "Hazardous Waste"	1	\$200	\$100	\$100
Failure to mark or label containers of hazardous waste with an accumulation start date	1	\$200	\$100	\$100
Failure to provide for review job titles of employees that manage hazardous waste	1	\$200	\$100	\$0
Failure to include all required information in written job descriptions	1	\$200	\$100	\$100
Failure to provide for review records that hazardous waste management training has been provided to employees	1	\$200	\$100	\$0
Failure to prevent unknowing entry into the hazardous waste storage area	1	\$1,000	\$500	\$0
Failure to post "Danger-Unauthorized Personnel Keep Out" signs	1	\$200	\$100	\$100
Failure to provide for review a description of the hazardous waste management training program	1	\$200	\$100	\$0
Failure to provide a quick reference guide for review	1	\$200	\$100	\$0

Failure to provide a contingency plan for review	1	\$200	\$100	\$0	
Failure to maintain adequate aisle space	1	\$1,000	\$500	\$0	
Failure to inspect hazardous waste storage tanks daily	1	\$1,000	\$500	\$500	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$29,200	\$9,600	\$5,150	\$43,950

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$43,950
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$8,790
Ability to Pay (-)	\$0	<b>FINAL PENALTY</b>	\$35,160
Other Factors (+/-)	-\$8,790		

Footnotes

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