

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Industrial Plating Co., Inc.
Anniston, Calhoun County, Alabama
USEPA Identification Number ALD983179466**

Consent Order No. 25-XXX-CHW

PREAMBLE

This Consent Order is made and entered into by the Alabama Department of Environmental Management ("the Department" or "ADEM") and Industrial Plating Co., Inc. ("IPC") 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. IPC operates a metal plating facility (the "Facility") with EPA Identification Number ALD983179466, located at 1300 Clydesdale Avenue in Anniston, Calhoun County, Alabama. IPC, 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 January 8, 2025, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of IPC. The CEI and a review of IPC'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.

IPC failed to make a proper waste determination on waste materials located in the containment system in the Plating Building.

(b) Pursuant to pertinent parts of 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.

IPC stored hazardous waste on site for more than 90 days without a permit and without being granted an extension. Hazardous waste located in the containment system in the Plating Building was stored on site for more than 90 days.

(c) IPC accumulated hazardous waste in the containment system in the Plating Building, thereby operating the containment system as a hazardous waste storage tank. As a result, IPC failed to comply with the following requirements:

(I) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(i), a large quantity generator must comply with the applicable requirements of ADEM Admin. Code r. 335-14-6-.29, which incorporates by reference 40 CFR Part 264 Subpart CC [including 40 CFR 264.1084(c)(2)(i), which requires, in part, that the fixed roof of a tank and its closure devices form a continuous barrier over the entire surface of the hazardous waste storage tank.

IPC failed to provide the containment system with a fixed roof and/or closure devices that form a continuous barrier over the entire surface of the hazardous waste in the tank.

(II) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2. referencing ADEM Admin. Code r. 335-14-6-.10(2)(a), a large quantity generator 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 tank system's integrity.

IPC failed to keep on file at the facility written assessment reviewed and certified by a professional engineer attesting to the containment system's integrity.

(III) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)2. referencing ADEM Admin. Code r. 335-14-6-.10(6)(b)2., a large quantity generator must inspect, at least once each operating day, aboveground portions of the tank system, if any, to detect corrosion or release of waste.

IPC failed to inspect the containment system at least once each operating day.

(IV) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(ii), a large quantity generator accumulating hazardous waste in tanks must mark or label its tanks with the words "Hazardous Waste", the EPA hazardous waste number(s), and an indication of the hazards of the contents. It must also use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank and keep inventory logs or records with this information on site and readily available for inspection.

IPC failed to mark or label the containment system with the words "Hazardous Waste", the EPA hazardous waste number(s), and an indication of the hazards of the contents. Furthermore, ICP failed to demonstrate that hazardous waste had been emptied within 90 days of first entering the containment system and to provide for review inventory logs or records with this information.

(d) ICP did not properly manage satellite accumulation containers of hazardous waste. As a result, ICP failed to comply with the following requirements:

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

IPC failed to keep closed one satellite accumulation container of hazardous waste. Waste was not being added to the container, removed from the container, or consolidated.

(II) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5., a generator must mark or label its satellite accumulation containers with the words "Hazardous Waste" and with an indication of the hazards of the contents.

IPC failed to mark or label one satellite accumulation container with the words "Hazardous Waste" and with an indication of the hazards of the contents.

5. On March 18, 2025, the Department issued a Notice of Violation ("NOV") to IPC, which cited the above violation(s) of the hazardous waste regulations.

6. On April 17, 2025, the Department received IPC's written response to the NOV, which stated that all violations cited therein had been corrected.

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 the civil penalty assessed in this Order, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATION(S):** In determining the seriousness of the violation(s), 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) STANDARD OF CARE: In considering the standard of care manifested by IPC, the Department noted that the violation(s) described above were non-technical and easily avoidable. Consequently, IPC 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 IPC as a result of the violation(s) 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 violation(s).

(e) HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, IPC does not have a history of similar violations at the Facility.

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

IPC'S CONTENTIONS

9. IPC neither admits nor denies the Department's Contentions. IPC 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, IPC, 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 IPC agree to enter into this Consent Order with the following terms and conditions:

A. IPC agrees to pay to the Department a civil penalty in the amount of \$14,760 in settlement of the violation(s) alleged herein within forty-five (45) days of the effective date of this Consent Order. Failure to pay the civil penalty within forty-five (45) 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. IPC 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 IPC's name and address, and the ADEM Consent Order Number of this action.

C. IPC agrees to comply with all applicable 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.

D. The Department and IPC ("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 violations cited herein.

F. IPC 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, IPC 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. IPC 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 IPC 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 IPC'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.

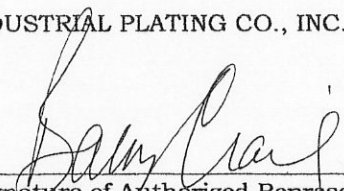
M. The Parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

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

Executed in duplicate, with each part being an original.

INDUSTRIAL PLATING CO., INC.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT


(Signature of Authorized Representative)

Jeffrey W. Kitchens
Acting Director

BARRY CRAIG
(Printed Name)

President
(Printed Title)

7-3-25
(Date Signed)

(Date Executed)

Attachment A

Industrial Plating Co., Inc.
Anniston, Calhoun County
Facility ID No. ALD983179466

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
(a) Failure to perform proper waste determinations	1	\$2,500	\$250	\$0	
(b) Storage of hazardous waste without a permit	1	\$10,000	\$1,000	\$0	
(c) Failure to comply with hazardous waste storage tank requirements	4	\$4,000	\$400	\$0	
(d) Failure to comply with satellite accumulation requirements	2	\$200	\$100	\$0	Total of Three Factors
TOTAL PER FACTOR		\$16,700	\$1,750	\$0	\$18,450

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$18,450
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$3,690
Ability to Pay (-)	\$0	FINAL PENALTY	\$14,760
Other Factors (+/-)	-\$3,690		

Footnotes

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