

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Falkville Wood Treating, Inc.
Falkville, Morgan County, Alabama
USEPA Identification Number ALD981023773**

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 Falkville Wood Treating, Inc. ("FWT") 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. FWT operates a wood treating facility (the "Facility") with EPA Identification Number ALD981023773, located at 4384 U.S. Highway 31 SW in Falkville, Morgan County, Alabama. FWT, 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 February 10, 2025, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of FWT. The CEI and a review of FWT's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.14(2), a large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

FWT failed to maintain and operate the Facility to minimize the possibility of a release of hazardous waste to the environment. FWT placed a creosote-covered plastic tarp on the concrete pad in Shed 5 (an open pole barn).

(b) FWT accumulated hazardous waste generated during a treatment cylinder cleanout in the following areas, thereby operating these areas as additional central accumulation areas: an area outside of the Primary Hazardous Waste Central Accumulation Area, the North Drip Pad Area, Shed 5, and the Outdoor Shed. As a result, FWP failed to comply with the following requirements:

(I) 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.

FWT failed to maintain adequate aisle space between containers in the Primary Hazardous Waste Central Accumulation Area to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment during an emergency.

(II) 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.

FWT failed to conduct weekly inspections in the following areas: the Primary Hazardous Waste Central Accumulation Area, an area outside of the Primary Hazardous Waste Central Accumulation Area, the North Drip Pad Area, Shed 5, and the Outdoor Shed.

(III) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(vi)(b), the large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

FWT failed to post "No Smoking" signs in the following locations where reactive wastes were accumulated: the Primary Hazardous Waste Central Accumulation Area, an area outside of the Primary Hazardous Waste Central Accumulation Area, the North Drip Pad Area, Shed 5, and the Outdoor Shed.

(IV) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10., the 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, unless physical contact with the waste, structures, or equipment will not injure unknowing or unauthorized persons or livestock which may enter the central accumulation area, and disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock into the central accumulation area will not cause a violation of the requirements of 335-14-3.

FWT failed to prevent unknowing entry and minimize unauthorized entry into the following areas: an area outside of the Primary Hazardous Waste Central Accumulation Area, the North Drip Pad Area, Shed 5, and the Outdoor Shed. These areas were not equipped with a fence or barrier to prevent entry.

(V) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(ii), unless exempt under 335-14-3-.01(7)(a)10., 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 central accumulation area, and that entry onto the central accumulation area can be dangerous.

FWT, which is not exempt under 335-14-3-.01(7)(a)10., failed to post "Danger – Unauthorized Personnel Keep Out" signs at the following locations: the Primary Hazardous Waste Central Accumulation Area, an area outside of the Primary Hazardous Waste Central Accumulation Area, the North Drip Pad Area, Shed 5, and the Outdoor Shed.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)3.(i) referencing ADEM Admin. Code r. 335-14-6-.23(4)(i), the drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and the cleaning procedure used in the facility operating log.

FWT failed to maintain the surface of the drip pad to allow for proper inspection.

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

(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.

FWT failed to mark or label ten containers of hazardous waste in Shed 5 with an accumulation start date.

(II) 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.

FWT failed to mark or label ten containers of hazardous waste in Shed 5 with the appropriate EPA hazardous waste numbers.

(III) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(iv), a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste and must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

FWT failed to keep closed one container of hazardous waste in the Filter Press Area.

(IV) 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".

FWT failed to mark or label one container of hazardous waste in the Filter Press Area with the words "Hazardous Waste".

(V) 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].

FWT failed to mark or label six containers of hazardous waste in the Filter Press Area and the Outdoor Shed with an indication of the hazards of the contents.

(e) FWT did not maintain required documentation at the Facility. As a result, FWT failed to comply with the following requirements:

(I) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)3.(iii)b., the large quantity generator must maintain on site at the facility documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

FWT failed to provide for review records indicating the quantity of waste removed from the drip pad and the date and time of removal.

(II) 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. The signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

FWT failed to provide for review signed copies of hazardous waste manifest #025422387JJJ (dated 07-25-2023) and hazardous waste manifest #024001676JJJ (dated 12-18-2024).

(III) Pursuant to ADEM Admin. Code r. 335-14-3-.14(9)(d), the required contingency plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator [see 335-14-3-.14(12)], and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

FWT failed to keep the list of emergency coordinators in the contingency plan up to date.

(IV) Pursuant to the pertinent part of ADEM Admin. Code r. 335-14-3-.14(10), the 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) and must submit a quick reference guide of the contingency plan to the local emergency responders or, as appropriate, the Local Emergency Planning Committee.

FWT failed to provide for review documentation that the facility's contingency plan and quick reference guide had been sent to all local emergency responders.

5. On May 13, 2025, the Department issued a Notice of Violation to FWT, which cited the above violation(s) of the hazardous waste regulations.

6. On June 9, 2025, the Department received FWT'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 FWT, the Department noted that the violation(s) described above were non-technical and easily avoidable. Consequently, FWT 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 FWT 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: FWT has a history of similar violations at the Facility, and the civil penalty reflects that history.

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

FWT'S CONTENTIONS

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

A. FWT agrees to pay to the Department a civil penalty in the amount of \$7,500 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. FWT 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 FWT's name and address, and the ADEM Consent Order Number of this action.

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

D. The Department and FWT ("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. FWT 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, FWT 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. FWT 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 FWT 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 FWT'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 FWT of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

FALKVILLE WOOD TREATING, INC.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

Mitchell McCord
(Printed Name)

President
(Printed Title)

8-20-2025
(Date Signed)

Edward F. Poolos
Director

(Date Executed)

Attachment A

Falkville Wood Treating, Inc.
Falkville, Morgan County
Facility ID No. ALD981023773

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
(a) Failure to operate the Facility to minimize the possibility of a release of hazardous waste	1	\$2,500	\$250	\$0	
(b) Failure to comply with central hazardous waste accumulation area requirements	5	\$2,500	\$250	\$250	
(c) Failure to maintain the surface of the drip pad to allow for proper inspection	1	\$1,000	\$100	\$0	
(d) Failure to comply with hazardous waste container requirements	5	\$500	\$250	\$250	
(e) Failure to comply with recordkeeping requirements	4	\$400	\$200	\$0	Total of Three Factors
TOTAL PER FACTOR		\$6,900	\$1,050	\$500	\$8,450

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	-\$950

Amount of Initial Penalty	\$8,450
Total Adjustments (+/-)	-\$950
FINAL PENALTY	\$7,500

Footnotes

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