

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)

Marcela Gonzalez)
Scottsboro, Jackson County, Alabama)

CONSENT ORDER NO.
25-XXX-AP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22- 22A-17, *as amended*, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, *as amended*, the Alabama Department of Environmental Management (“Department” or “ADEM”) Administrative Code of Regulations (“ADEM Admin. Code r.”) promulgated pursuant thereto, and the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, *as amended*, the Department makes the following FINDINGS:

1. Marcela Gonzalez (Gonzalez) owns real property located at the intersection of Shoreland Cir and Ridge Cir, Scottsboro, Jackson County, Alabama (the “Site”). The Parcel Number associated with the Site is 37-01-12-0-000-008.000.

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), *as amended*, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, *as amended*. In addition, the Department is authorized to administer and

enforce the provisions of the Alabama Air Pollution Control Act (AAPCA), Ala. Code §§ 22-28-1 to 22-28-23, *as amended*.

4. ADEM Admin. Code chap. 335-3-3 sets forth the requirements, limitations and exceptions regarding open burning.

5. ADEM Admin. Code r. 335-3-3-.01(2)(b)2 states that “the location of the burning must be at least 500 feet from the nearest occupied dwelling other than a dwelling located on the property which the burning is conducted. “

6. ADEM Admin. Code r. 335-3-3-.01(2)(b)4 states that “Only vegetation and untreated wood may be burned. It is unauthorized to open burn heavy oils, asphalt products, plastics, vinyl materials, insulation, paper, cardboard, natural or synthetic rubber, salvage or scrap materials, chemicals, garbage, treated or painted wood, or any trash.”

7. On March 21, 2025, the Department received a complaint referencing unauthorized open burning at the Site. Department personnel conducted an inspection on April 3, 2025, and documented unauthorized open burning at time of inspection. The material being burned included vegetative material, metal, demolition waste, and household garbage. The burn site is located within 500 feet of the nearest occupied dwelling. The Department received additional complaints of unauthorized open burning on April 29, 2025, and May 19, 2025. Unauthorized burning was noted during the subsequent inspections for these on May 6, 2025, and May 28, 2025.

8. On August 20, 2025, a Notice of Violation (NOV) was hand delivered to 112 Santa Barbara Dr, and it was received by a family member of Gonzalez. On August 27, 2025, a written response was received. In response, Gonzalez admitted that unauthorized burning was conducted at the site.

9. Gonzalez conducted unauthorized open burning at the Site, in violation of ADEM Admin. Code r. 335-3-3-.01 and the AAPCA.

10. Pursuant to Ala. Code § 22-22A-5(18)c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violations, 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 violations 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 violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: Gonzalez conducted unauthorized open burning of regulated materials and imported vegetation. The Department considers these violations to be serious.

B. THE STANDARD OF CARE: There appeared to be no care taken by Gonzalez to comply with the applicable requirements of the ADEM Admin. Code r. 335-3-3-.01 and the AAPCA.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: Gonzalez derived some economic benefit by not legally disposing of the waste.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: In the written response, Gonzalez stated the burning was stopped once the NOV was received. Gonzalez indicated signage, fencing, and security cameras would be installed to prevent other parties from conducting unauthorized burning on the site in the future.

E. HISTORY OF PREVIOUS VIOLATIONS: There were no documented previous violations.

F. THE ABILITY TO PAY: Gonzalez has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement, and has concluded that a civil penalty herein is appropriate (*See* "Attachment A", which is hereby incorporated into these Findings).

MARCELA GONZALEZ'S CONTENTIONS

11. Gonzalez neither admits nor denies the Department's contentions. Gonzalez consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

THEREFORE, without admitting that they have violated any statutes or regulations, Gonzalez, 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), 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 Gonzalez agree to enter into this Consent Order with the following terms and conditions:

- A. That, not later than forty-five days after the issuance of this Order, Gonzalez shall pay to the Department a civil penalty in the amount of \$6,600.00 for the violations cited herein. Said penalty shall be made payable to the Alabama Department of Environment Management by certified or cashier's check and shall be submitted to:

Office of General Counsel
Alabama Department of
Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

- B. That, immediately upon receipt of this Order and continuing thereafter, Gonzalez shall ensure immediate and future compliance with ADEM Admin. Code r. 335-3-3-.01 and the AAPCA.
- C. That, should any provision of this 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.
- D. Except as otherwise set forth herein, this 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 Gonzalez of obligations to comply in the future with any permit or other written direction from the Department.

E. That, issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against Gonzalez for the violations cited herein.

F. That, failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against Gonzalez for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

Executed in duplicate, with each part being an original.

MARCELA GONZALEZ

ENVIRONMENTAL MANAGEMENT

Marcela Glez.

(Signature of Authorized Representative)

Edward G. Poolos
Director

Marcela Gonzalez.

(Printed Name)

(Printed Title)

November 14, 2025

(Date)

(Date Executed)

ATTACHMENT A

Marcela Gonzalez
Scottsboro, Jackson County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Unauthorized open burning	3	\$3,000	\$2,250	\$0	
					Total of Three Factors
<i>TOTAL PER FACTOR</i>		<i>\$3,000</i>	<i>\$2,250</i>	<i>\$0</i>	<i>\$5,250</i>

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	-\$1,650
Total Adjustments (+/-) <i>Enter at Right</i>	-\$1,650

Economic Benefit (+)	\$3,000
Amount of Initial Penalty	\$5,250
Total Adjustments (+/-)	-\$1,650
FINAL PENALTY	\$6,600

Footnotes

* See the "Department's Findings" portion of the Order for a detailed description of each violation and the penalty factors.