

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
Genpak LLC)
Hope Hull, Montgomery County, Alabama) CONSENT ORDER NO. DRAFT
ADEM Air Facility ID No. 209-0087)

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and Genpak LLC ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-17, as amended, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 through 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

- 1. The Permittee operates a food container production facility, Air Division Facility No. 209-0087 ("Facility"), located at 7621 Bill Joseph Parkway, Hope Hull, Montgomery County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 through 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 et seq., as amended. In addition, the Department is authorized to administer and enforce the

provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 through 22-28-23, *as amended*.

4. The Department issued the current Major Source Operating Permit No. 209-0087 (“Permit”) to the Permittee on January 6, 2020. An application for renewal of the Permit was received June 24, 2024; therefore, the Permit has been administratively continued.

5. Permit Proviso No. 1 of the Emission Standards section for the Extrusion and Thermoformer Operations states: *“Emissions of Volatile Organic Compounds (VOCs) from this plant wide operations shall not [exceed] 249.1 tons in any consecutive rolling 12-month period. This process shall not utilize more than 594.5 tons of Iso-pentane and or n-Butane during any rolling twelve – 12-month period. The percent by weight of Iso-pentane and/or n-Butane retained shall be 93% or greater.”*

6. Permit Proviso No. 1 of the Compliance and Performance Test Methods and Procedures section for the Extrusion and Thermoformer Operations states: *“Analysis of the percent by weight of Iso-pentane and/or n-Butane retained in the product shall be made quarterly according to the approved testing procedure submitted to the Department.”*

DEPARTMENT'S CONTENTIONS

7. On October 7, 2025, the Permittee submitted the third quarter (July 1 through September 30) of 2025 report containing the VOC emissions values, blowing agent usage, and a copy of the second quarter of 2025 blowing agent retention analysis, which indicated that the Permittee had exceeded the VOC emissions limitations, prevention of significant deterioration (PSD) thresholds, and failed to perform the retention analysis required for the third quarter of 2025. The exceedances were confirmed in further e-mail conversations between October 7, 2025, and October 10, 2025.

8. Further examination of the Permittee's third quarter of 2025 report led to the discovery of typographical errors that, when corrected in previous reports, showed the Permittee had also exceeded its emissions limitations in the second quarter (April 1 through June 30) of 2025.

9. On January 8, 2026, the Permittee submitted the fourth quarter (October 1 through December 31) of 2025 report. This report indicated that the Permittee was still in violation of its VOC emissions limitations.

10. Reported values for blowing agent usage and VOC emissions for the period of May through December of 2025 are as follows:

	Blowing Agent Usage (tons)	12-month rolling total VOC Emissions (tons)
May-2025	593.00	246.68
June-2025	616.09	258.16
July-2025	632.89	265.20
August-2025	645.29	270.40
September-2025	641.89	268.97
October-2025	634.85	266.02
November-2025	634.34	265.81
December-2025	619.03	259.39

Values in bold represent a violation of the Permit.

11. A Notice of Violation (NOV) was issued to the Permittee on October 16, 2025 for violating VOC emissions limitations for the second and third quarters of 2025 and failing to perform an analysis of the blowing agent for the third quarter of 2025.

12. On November 6, 2025, the Department received the Permittee's response to the NOV. The response and subsequent correspondence received between November 10, 2025, and November 20, 2025, indicated that the Permittee is taking measures to reduce its emissions and return to compliance during December 2025.

13. 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 violation, 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 the effects of such violation 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:** The Department considers the Permittee's failure to comply with the permitted emission limits, failure to perform the required retention analysis, and reporting issues to be serious violations.

B. **THE STANDARD OF CARE:** The Permittee failed to operate the emission units in compliance with permitted limits. Therefore, the Permittee did not exhibit the requisite standard of care to comply with the requirements of the Permit and applicable regulatory standards.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any economic benefits the Permittee may have gained as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIROMENT: The Permittee has stated that they intend to utilize a more efficient blowing agent, reduce production at the facility, tighten controls on blowing agent usage, and expedite installation and testing of a permitted Regenerative Thermal Oxidizer (RTO).

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee was previously issued an NOV on August 30, 2005, for failing to apply for an Air Permit with the Department before installing new equipment.

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

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty to resolve this matter amicably without incurring the unwarranted expense of litigation.

14. 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, based upon the foregoing and attached contentions, has concluded that the civil penalty is appropriate (*See* "Attachment A", which is hereby made a part of Department's Contentions).

15. The Department neither admits nor denies Permittee'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 unwarranted expenditure of State resources in prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE'S CONTENTIONS

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

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues 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 and has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$62,200.00 in settlement of the violations alleged herein within forty-five days from 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. The Permittee 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 and shall be remitted to:

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

Or, in the alternative, payment of the civil penalties assessed herein shall be made in the form of a wire transfer payable to the Alabama Department of Environmental Management pursuant to the wire transfer instructions to be provided to the Permittee by the Department.

C. The Permittee agrees to comply with all other requirements of ADEM Administrative Code Div. 335-3 and the MSOP immediately upon the effective date of this Order and continuing every day thereafter.

D. The 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 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 presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee 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 Permittee 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. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee 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 Permittee, 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 the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increase 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 the Permittee, 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 Department and the Permittee agree that the purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances reference herein. Should additional facts and circumstances be discovered concerning current allegations and contentions which would constitute violations not addressed in this Consent Order, then such violations may be addressed in Orders as may be issued by the

Director, litigation initiated by the Department, or such other enforcement action as may be appropriate. The Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order.

I. The Department and the Permittee 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 the Permittee does hereby waive any hearing on the terms and conditions of the same.

J. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public has, at a minimum, a thirty-day comment period for the proposed Order.

L. The Department and the Permittee agree 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.

M. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties. Any modification would require an additional public notice and comment period.

N. The Department and the Permittee agree that, 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 the Permittee of its obligations to comply in the future with any permit.

O. The Department and Permittee agree that compliance with Section described as "Order" of this consent order, including payment of any stipulated penalties, constitutes full satisfaction of all requirements pertaining to the specific violations described in the Section titled "Department's Contentions" of this consent order.

Executed in duplicate, with each part being an original.

GENPAK LLC

ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

Edward F. Poolos
Director

Paul M Olive

(Printed Name)

VP of Operations

(Printed Title)

3/11/20

(Date)

(Date Executed)

ATTACHMENT A

Genpak, LLC
Air Facility ID No. 209-0087
Hope Hull, Montgomery County

Violation¹	Number of Violations	Seriousness of Violation¹	Standard of Care¹	History of Previous Violations¹	Total of Three Factors²
Exceedance of VOC emission limits	7	\$ 19,300	\$ 9,700	\$ 0	\$ 29,000
Exceedance of blowing agent usage limits	7	\$ 19,300	\$ 9,700	\$ 0	\$ 29,000
Failure to perform necessary compliance testing	1	\$ 2,800	\$ 1,400	\$ 0	\$ 4,200
SUBTOTAL					\$ 62,200

Adjustments to Amount of Initial Penalty

Mitigating Factors (-)	\$ -
Ability to Pay (-)	\$ -
Other Factors (+/-)	\$ -
Total Adjustments (+/-)	\$ -

Economic Benefit	\$ -
Amount of Initial Penalty	\$ 62,200
Total Adjustments (+/-)	\$ -
Adjustment for Statutory Cap ³	\$ (-)
FINAL PENALTY	\$ 62,200

¹ See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.

² Pursuant to Ala. Code §22-22A-5(18)c., as amended, the penalty for each individual violation is limited to \$25,000.00.

³ Pursuant to Ala. Code §22-22A-5(18)c., as amended, the total assessed penalty is limited to \$250,000.00.