

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
Steve and Rita Overby) PROPOSED
Odenville, St. Clair County, Alabama) ADMINISTRATIVE
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. Steve and Rita Overby (the Overbys) own real property located on Margaret Lane, Odenville, St. Clair County, Alabama (the “Site”). The Parcel Number associated with the Site is 16-04-19-0-001-071.000.
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) limits open burning as authorized by 335-3-3-.01(2)(a) to certain conditions, including:

- a. The burning must take place on the property on which the combustible fuel originates [335-3-3-.01(2)(b)(1)];
- b. The location of the burning must be at least 500 feet from the nearest occupied dwelling other than a dwelling located on the property on which the burning is conducted [335-3-3-.01(2)(b)(2)];
- c. The fire shall be attended at all times [335-3-3-.01(2)(b)(7)].

6. On August 14, 2024, the Department received a complaint referencing unauthorized open burning at the Site. During the September 19, 2024 site inspection, Department personnel were unable to locate a burn site.

7. The Department received more complaints on September 10 and 17, 2025 of unauthorized open burning at the site. During a September 22, 2025 site inspection, Department personnel observed active burning of imported green waste. No one was onsite attending the fire. The burning was also within 500 feet of the nearest occupied dwelling.

8. On October 9, 2025, a Notice of Violation (NOV) was issued for unauthorized open burning. The NOV was delivered by the United States Postal Service on October 15, 2025. As of this date, the Department has not received a response.

9. The Department received eight additional complaints from October 8, 2025 through January 8, 2026. During a January 7, 2026 site inspection, Department personnel observed active burning of imported green waste. No one was onsite attending the fire. The burning was also within 500 feet of the nearest occupied dwelling.

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

9. 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:** The Overbys conducted unauthorized open burning of imported vegetation within 500 ft of occupied dwellings. The Department considers these violations to be serious.

B. **THE STANDARD OF CARE:** There appeared to be no care taken by the Overbys to comply with the applicable requirements of the ADEM Admin. Code r. 335-3-3-.01 and the AAPCA. The Overbys continued to conduct unauthorized open burning after receiving a NOV.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has determined that the Overbys likely derived economic benefit by not properly disposing of the imported vegetation.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There were no efforts by the Overbys to mitigate possible effects of these violations upon the environment at the time of the violations.

E. HISTORY OF PREVIOUS VIOLATIONS: There were no documented previous violations for unauthorized open burning.

F. THE ABILITY TO PAY: The Overbys have 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).

ORDER

Based upon the foregoing FINDINGS and pursuant to Ala. Code §§22-22A-5(10), 22-22A-5(12), 22-22-5(18), and 22-28-18, *as amended*, it is hereby ORDERED:

A. That, not later than forty-five days after the issuance of this Order, the Overbys shall pay to the Department a civil penalty in the amount of \$10,500.00 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, the Overbys 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 the Overbys of obligations to comply in the future with any permit or other written direction from the Department.

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

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

ORDERED and ISSUED this _____ day of _____, 2026

Edward F. Poolos, Director
Alabama Department of Environmental
Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
(334) 271-7700

CERTIFICATE OF SERVICE

I, Aubrey H. White III, do hereby certify that I have served this Proposed Administrative Order upon the person(s) listed below by sending the same, postage paid, through the United States Mail xxx xxxx with instructions to forward and return receipt, to:

Steve and Rita Overby
166 Margaret Ln
Odenville, Alabama 35120

DONE this the _____ day of _____, 2026.

Aubrey H. White III
Chief - Air Division
Alabama Department of
Environmental Management

ATTACHMENT A

Steve and Rita Overby
Odenville, St. Clair County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Unauthorized open burning	2	\$4,000	\$4,000	0	
					Total of Three Factors
TOTAL PER FACTOR		\$4,000	\$4,000	0	\$8,000

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-) <i>Enter at Right</i>	\$0

Economic Benefit (+)	\$2,500
Amount of Initial Penalty	\$8,000
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$10,500.00

Footnotes

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