

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )  
 )  
CM Biomass )  
Crossville, DeKalb County, Alabama )  
 )  
Air Facility ID No. 703-0041 )

CONSENT ORDER NO: 26-XXX-CAP

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“Department” or “ADEM”) and CM Biomass (“Permittee”) 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.

STIPULATIONS

1. The Permittee owns and operates Crossville Pellets, LLC, a pellet mill, ADEM Air Facility ID No. 302-0018 (hereinafter, the “Facility”) located at 17551 AL Highway 68, Crossville, DeKalb County, Alabama.
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, Ala. Code §§ 22-28-1 to 22-28-23, as amended.

4. On July 9, 2024, the Department issued Air Permit No. X016 to the Permittee, which authorizes the operation of the rotary dryer with a 57 MMBtu/hr direct-fired sawdust burner controlled by an array of two (2) cyclones in parallel (hereinafter, the "Drying System").

5. Drying System Unit Specific Proviso No. 2(a) of Air Permit No. X016 limits Particulate Matter ("PM") emissions in any one hour from any process in excess of the amount determined by the following equations ("Process Weight"):

$$E=17.31P^{0.16} \text{ (P} \geq 30 \text{ TPH)}$$

$$E=3.59P^{0.62} \text{ (P} < 30 \text{ TPH)}$$

Where:

E = Emissions (in pounds per hour)

P = Process weight (in tons per hour)

6. Drying System Unit Specific Proviso No. 3(a) of Air Permit No. X016 requires emissions tests be conducted on the Drying System at intervals not to exceed 36 months for PM and Volatile Organic Compounds ("VOC").

#### DEPARTMENT'S CONTENTIONS

7. On September 8, 2025, the Department received the results of stack tests performed at the Facility on July 23, 2025. Test results indicated a PM average of 42.82 lbs/hr, in violation of the applicable emission limit of 25.53 lbs/hr based on process weight calculated at the stack test average production rate of 23.66 TPH.

8. On October 6, 2025, the Department issued a Notice of Violation ("NOV") to the Permittee for failing to meet the applicable PM emission limit based on process weight as established in Air Permit No. X016. The Department requested a written response to the NOV be received no later than November 3, 2025.

9. In the October 17, 2025, response to the NOV, the Permittee stated that excess emissions only occurred because the probes that were inserted into the duct during the stack test broke up collected contaminants on the dryer cyclone, resulting in the discharge of material during the stack test that is not normally emitted. The Permittee stated that the emissions reported during the test were not representative of normal operations at the Facility.

10. On December 2, 2025, follow-up PM testing was conducted on the Drying System at the Facility. During the first run of the test, the filter plugged within approximately ten to fifteen minutes of the start of the test. The test was stopped and run one was voided. The Facility attributed the cause of the plugged filters to a malfunction in the Drying System's sensors that caused the ID fan to run at 100 percent. Prior to the start of the second run, the ID fan was manually changed by the Facility to run at 75 percent. During the second run of the test, the filter plugged within approximately twenty minutes of the start of the run. The Facility instructed the testing team to proceed with conducting engineering runs rather than continue with the compliance testing. As previously discussed with the Facility, the Department deems the test a failure because the Facility stopped the test. On January 2, 2026, the Department received the results of the December 2, 2025, stack test. Results were limited due to the nature of the stack test; however, even the limited results provided from the stack test indicated that the PM average would have been well over the allowed emission limit of 24.15 lbs/hr based on process weight calculated at the stack test average production rate of 24 TPH. No data was submitted for run one. Data submitted showed that run two was stopped at the twenty-minute mark and indicated a PM total of 22.63 pounds, which would equate to approximately 67.89 lbs/hr. Run three utilized three filters and was stopped after approximately eleven minutes. Data submitted indicated a PM total of 36.36 pounds, which would equate to approximately 198.33 lbs/hr.

11. On January 20, 2026, the Department received the results of stack tests performed at the Facility on December 17, 2025. Test results indicated a PM average of 23.38 lbs/hr, which was 91.4 percent of the applicable emission limit of 25.59 lbs/hr based on process weight calculated at the stack test average production rate of 23.76 TPH.

12. 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 Permittee failed to comply with the Particulate Matter emission standard set forth by Air Permit No. X016 for the Drying System by failing stack testing on July 23, 2025, and December 2, 2025. The Department considers these failures to comply with the emissions standard to be serious violations.

B. **THE STANDARD OF CARE:** The Permittee did not exhibit a standard of care commensurate with applicable regulatory requirements and Permit conditions by exceeding the operating limitations of its Air Permits.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any economic benefit 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 ENVIRONMENT: In the October 17, 2025, response to the October 6, 2025, NOV, the Facility stated that the non-insulated duct on the Drying System would be maintained to prevent contaminant accumulation from interfering with the next stack test. Documentation submitted on December 4, 2025, stated that the Facility would replace the recycled air dampener drive and add an alarm to notify personnel when the ID fan exceeds 85 percent full load amps prior to the December 17, 2025, stack test.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has no previous history of violations with the Department relative to this matter.

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 warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

13. 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 the Department's Contentions).

14. The Department neither admits nor denies the 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 the unwarranted expenditure of State resources in further 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

15. The Permittee neither admits nor denies the Department's Contentions. By entering into this Consent Order without adjudication of law, fact, or liability, the Permittee makes no admission of liability for any violation of statute or regulation. The Permittee consents to abide by the terms of this Consent Order and to 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 the Department 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 the Department a civil penalty in the amount of \$40,000.00 for the violations cited 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

C. The Permittee agrees to comply with all requirements of ADEM Administrative Code div. 335-3 immediately upon the issuance of the revised Air Permits 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 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 this Consent Order, subject to the terms of these presents and subject to provisions otherwise provided by statute, 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 increased 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 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 concerning the Site 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 action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in 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 same. Pursuant to Ala. Code §§ 22-22A-7(7), Permittee agrees that this Consent Order shall not be subject to judicial review in any proceeding for enforcement by the Department.

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 have at least thirty days within which to comment on the 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.

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.

Executed in duplicate, with each part being an original.

CM BIOMASS

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

Tina Parker

(Signature of Authorized Representative)

Tina Parker

(Printed Name)

HSE Director

(Printed Title)

Date Signed: 5/27/26

Edward F. Poolos  
Director

Date Executed: \_\_\_\_\_

# ATTACHMENT A

## CM Biomass Crossville, DeKalb County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Failed Stack Test	2	\$35,000	\$15,000	\$0	
					<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		<b>\$35,000</b>	<b>\$15,000</b>	<b>\$0</b>	<b>\$50,000</b>

<b>Adjustments to Amount of Initial Penalty</b>	
<b>Mitigating Factors (-)</b>	
<b>Ability to Pay (-)</b>	
<b>Other Factors (+/-)</b>	-\$10,000
<b>Total Adjustments (+/-) Enter at Right</b>	<b>-\$10,000</b>

<b>Economic Benefit (+)</b>	\$0
<b>Amount of Initial Penalty</b>	\$50,000
<b>Total Adjustments (+/-)</b>	-\$10,000
<b>FINAL PENALTY</b>	<b>\$40,000.00</b>

Footnotes

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