ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:	
Smith Industries DBA Jay R. Smith Manufacturing Co. **Montgomery, Montgomery County, Alabama** **USEPA Identification Number ALD002166338**	Consent Order No. 26-XXX-CHW

PREAMBLE

This Consent Order is made and entered into by the Alabama Department of Environmental Management ("the Department" or "ADEM") and Smith Industries DBA Jay R. Smith Manufacturing Co. ("Smith") 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. Smith operates an industrial plumbing materials manufacturing facility with EPA Identification Number ALD002116338, located at 2781 Gunter Park Drive East in Montgomery, Montgomery County, Alabama. Smith, as a result of its operations at the facility, was a large quantity generator of hazardous waste, a small quantity generator of universal waste, and a used oil generator, as those terms are 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 January 20, 2026, the Department conducted a compliance evaluation inspection ("CEI") of Smith. The CEI and a review of Smith'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 nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

Smith failed to operate its facility to minimize the possibility of the release of hazardous waste to the environment. Hazardous waste was allowed to spill onto and remain on the floor for prolonged periods in the following areas:

- The plating pipes located at the wall of the wastewater treatment system (the pipes were leaking an excessive amount of plating fluid onto the floor, which had been occurring for an extended period, as evidenced by excessive floor degradation and buildup of residue), and
- Several broken bulbs and bulb pieces located at the bulb crushing station (the bulbs were scattered on the floor, which had been occurring for an extended period, as evidenced by excessive amounts of broken bulbs surrounding the area).

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(1)(a)3., a generator of hazardous waste shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in 335-14-1-.02, or not otherwise authorized to receive the generator's hazardous waste.

Smith managed hazardous waste (PPE contaminated with F003 and F005 hazardous waste) as non-hazardous material. Smith's operational practice was to store this material in a cubic-yard crate located in the painting area. The crate was routinely sent for

disposal to a local landfill that is not designated or otherwise authorized to receive hazardous waste.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(2), a person who generates a solid waste, as defined in 335-14-2-.01(2), must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable AHWMMA regulations.

Smith failed to make accurate waste determinations on the following wastes:

- Hazardous waste (PPE contaminated with F003 and F005 hazardous waste) located in the painting area,
- Spent paint air filters located in the painting area, and
- Plating bath contaminated pigs located in the wastewater treatment system area.

(d) Smith failed to properly manage satellite accumulation containers of hazardous waste. As a result, Smith failed to comply with the following requirements:

(I) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)4., a satellite accumulation container holding hazardous waste must be closed at all times during accumulation, except when adding, removing, or consolidating waste.

Smith failed to keep closed the following satellite accumulation containers of hazardous waste:

- One 55-gallon drum of hazardous waste located in the paint storage room, and
- One cubic-yard crate of hazardous waste located in the painting area.

(II) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5., a large quantity generator must mark or label its satellite container(s) with the words "Hazardous Waste" and with an indication of the hazards of the contents.

Smith failed to properly mark or label the following satellite accumulation containers of hazardous waste:

- One cubic-yard crate located in the painting area, which was not marked or labeled with the words "Hazardous Waste" and with an indication of its hazards, and
- One cubic-yard crate located in the wastewater treatment area, which was not marked or labeled with an indication of its hazards.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i), a large quantity generator must mark or label its containers with the words "Hazardous Waste", an indication of the hazards of the contents, the date upon which each period of accumulation begins, and all appropriate EPA hazardous waste numbers associated with the hazardous waste as specified in 335-14-2-.03 and 335-14-2-.04.

Smith failed to properly mark or label the following hazardous waste containers:

- Twenty 5-gallon buckets of hazardous waste located in the central hazardous waste accumulation area, which were not marked or labeled with the words "Hazardous Waste", accumulation start dates, and the appropriate EPA hazardous waste number(s), and
- One 55-gallon drum of hazardous waste located in the central hazardous waste accumulation area, which was not marked or labeled with an indication of its hazards.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(i)2., a large quantity generator of hazardous waste must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into the central accumulation area. A large quantity generator must have an artificial or natural barrier, which completely surrounds the active portion of the facility, and a means to control entry, at all times, through the gates or other entrances to the central accumulation area.

Smith failed to restrict access to the central hazardous waste accumulation area. At the time of the CEI, the gated entrance to the treatment area that serves as the restricted access point to the hazardous waste central accumulation area was not locked.

(g) Smith failed to properly manage universal waste. As a result, Smith failed to comply with the following requirements:

(I) Pursuant to ADEM Admin. Code r. 335-14-11-.02(4)(d)1., a small quantity handler of universal waste must contain any waste lamp(s) in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

Smith failed to keep closed one box of universal waste lamps located at the fluorescent bulb crushing station.

(II) Pursuant to ADEM Admin. Code r. 335-14-11-.02(5)(e), a small quantity handler of universal waste must label or mark universal waste lamp containers or packages in which the lamps are contained with any one of the following phrases: "Universal Waste - Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

Smith failed to mark or label one container of universal waste lamps located at the fluorescent bulb crushing station with the words "Universal Waste - Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".

(III) Pursuant to ADEM Admin. Code r. 335-14-11-.02(6)(a), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of 335-14-11-.02(6)(b) are met.

Smith accumulated universal waste for longer than one year. At the time of the CEI, two 5-gallon buckets of universal waste batteries located near the fluorescent bulb crushing station were dated 6-14-2023.

(IV) Pursuant to ADEM Admin. Code r. 335-14-11-.02(6)(c), a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

Smith failed to demonstrate the length of time that one box of universal waste lamps located at the fluorescent bulb crushing station had been accumulated.

(h) Smith failed to properly manage containers of used oil. As a result, Smith failed to comply with the following requirements:

(I) Pursuant to ADEM Admin. Code r. 335-14-17-.03(4)(a)1., a container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

Smith failed to keep closed one 55-gallon drum of used oil located in the compressor room.

(II) Pursuant to ADEM Admin. Code r. 335-14-17-.03(4)(c)1., containers and used oil tanks, except underground tanks, used to store used oil at used oil generator locations must be labeled or marked clearly with the words "Used Oil".

Smith failed to mark or label the following containers of used oil with the words "Used Oil":

- One 30-gallon drum located in the compressor room,
- One 5-gallon carboy located in the compressor room, and
- One secondary containment structure filled with used oil

located in the machine shop.

(i) Smith failed to furnish or make available copies of records and plans at the time of the CEI. As a result, Smith failed to comply with the following requirements:

(I) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(v), a large quantity generator must inspect central accumulation areas weekly. A large quantity generator must record inspections in an inspection log or summary. These records must be kept 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.

Documentation of a weekly hazardous waste area inspection performed on August 29, 2024, did not include the name of the inspector.

(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 they receive a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

Smith failed to provide for review copies of several hazardous waste manifests signed by the designated facility.

(III) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10), a copy of the contingency plan and all revisions to the plan must be maintained at a large quantity generator. A 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). A large quantity generator must submit a quick reference guide of the contingency plan to the local emergency responders identified at 335-14-3-.14(10)(a) or, as appropriate, the Local Emergency Planning Committee. A large quantity generator must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified at 335-14-3-.14(10)(a) or, as appropriate, the Local Planning Committee.

Smith failed to provide documentation that the facility's contingency plan had been sent to all local emergency responders, failed to provide documentation that the facility had developed a quick reference guide for their contingency plan, and failed to provide documentation that a copy of the quick reference guide had been sent to all local emergency responders.

(IV) Pursuant to ADEM Admin. Code r. 335-14-3-.14(11)(d), a large quantity generator must review the contingency plan and immediately amend it, if necessary, whenever the list of emergency coordinators changes.

Smith failed to amend the contingency plan when its emergency coordinators changed.

5. On June 11, 2026, the Department issued a Notice of Violation to Smith, which cited the abovementioned violation(s).

6. On July 5, 2026, Smith submitted to the Department a written response to the NOV, which stated that the violation(s) cited in the NOV 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 this civil penalty, 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 Smith, the Department noted that the violation(s) were non-technical and easily avoidable. Consequently, Smith 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 Smith as a result of the violation(s).

(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 violation(s).

(e) HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Smith has a history of similar violations and the civil penalty reflects that history.

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

SMITH'S CONTENTIONS

9. Smith neither admits nor denies the Department's Contentions. Smith 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, Smith, along with the Department, desires to resolve and settle the alleged violation(s). 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 alleged violation(s). Therefore, the Department and Smith agree to enter into this Consent Order with the following terms and conditions:

A. Smith agrees to pay to the Department a civil penalty in the amount of $18,640 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. Smith 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 Smith's name and address, and the ADEM Consent Order Number of this action.

C. Smith agrees to comply with all applicable terms, conditions, and limitations of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended and the regulations promulgated pursuant thereto immediately upon the effective date of this Order and continuing every day thereafter.

D. The Department and Smith ("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 violation(s) cited herein.

F. Smith 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, Smith 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. Smith 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 Smith does hereby waive any hearing on the terms and conditions of this Consent Order.

J. Pursuant to Ala. Code §§ 22-22A-7(7), Smith agrees that this Consent Order shall not be subject to judicial review in any proceeding for enforcement by the Department.

K. The Parties agree that this Consent Order shall not affect Smith's obligation to comply with any federal, State, or local laws or regulations.

L. 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.

M. 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.

N. The Parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

O. 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 Smith of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

SMITH INDUSTRIES DBA JAY R. SMITH MANUFACTURING CO.

(Signature of Authorized Representative)

(Printed Name)

Exec. V.P

(Printed Title)

10/30/21

(Date Signed)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Edward Poolos
Director

(Date Executed)

Attachment A

Smith Industries DBA Jay R. Smith Manufacturing Co.
Montgomery, Montgomery County
Facility ID No. ALD002166338

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
(a) Failure to operate in a way that minimizes the possibility of the release of hazardous waste to the environment	1	$3,500	$350	$0	
(b) Sending hazardous waste for disposal at a facility that is not designated or otherwise authorized to receive hazardous waste	1	$10,000	$1,000	$0	
(c) Failure to make accurate waste determinations	1	$3,500	$350	$0	
(d) Failure to properly manage satellite accumulation containers	2	$300	$100	$100	
(e) Failure to properly mark or label containers of hazardous waste	1	$150	$50	$50	
(f) Failure to restrict access to the central hazardous waste accumulation area	1	$1,500	$150	$0	
(g) Failure to properly manage universal waste	4	$600	$200	$0	
(h) Failure to properly manage containers of used oil	2	$300	$50	$50	
(i) Failure to provide documents for review	4	$600	$200	$200	**Total of Three Factors**
TOTAL PER FACTOR		$20,450	$2,450	$400	$23,300

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	$0
Mitigating Factors (-)	$0
Ability to Pay (-)	$0
Other Factors (+/-)	-$4,660

Amount of Initial Penalty	$23,300
Total Adjustments (+/-)	-$4,660
FINAL PENALTY	$18,640

Footnotes

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