

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**American Leakless Company LLC  
Athens, Limestone County, Alabama  
USEPA ID NUMBER ALR000048389**

Consent Order No. 21-XXX-CHW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and American Leakless Company LLC (“ALC”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, 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. American Leakless Company LLC (“ALC”) operates an automotive gasket manufacturing facility (the “Facility”) with EPA Identification Number ALR000048389, located at 136 Roy Long Road in Athens, Limestone County, Alabama. ALC, as a result of its operations at the facility, was a large quantity generator, as that term is 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-16, 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 July 2, 2020, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection (hereinafter "CEI") of ALC. The CEI and a review of ALC's compliance showed the following:

- (a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(8)(d)1., a large quantity generator or small quantity generator must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current waste activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at 335-14-1-.02(1)(a).

ALC failed to submit a correct and complete ADEM Form 8700-12. ALC notified as a small quantity generator of hazardous waste while operating as a large quantity generator of hazardous waste.

- (b) 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 AHWMMMA regulations.

ALC failed to make a proper waste determination on methyl ethyl ketone (MEK) solvent contaminated manufacturing waste and rags generated at the Facility. ALC failed to properly characterize this waste and subsequently managed it as non-hazardous waste.

- (c) Pursuant to ADEM Admin. 335-14-3-.02(1)(a)1., a generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transportation a rejected hazardous waste load, must prepare a Manifest (OMB control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A.

ALC failed to prepare a uniform hazardous waste manifest for each shipment of hazardous waste (i.e. MEK contaminated manufacturing waste and rags) sent for disposal.

- (d) Pursuant to ADEM Admin. Code r. 335-14-3-.01(1)(a)3., a generator 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.

ALC sent hazardous waste (i.e. MEK contaminated manufacturing waste and rags) for disposal to a facility that was not a designated facility or otherwise authorized to receive the waste.

- (e) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a), a large quantity generator may accumulate hazardous waste on site without a permit or interim status provided the generator accumulates hazardous waste on site for no more than 90 days, unless it has been granted an extension to the 90-day period. ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Chapter 335-14-2.

Based on a review of the facility spent solvent log, ACL stored MEK spent solvent waste onsite for more than 90 days without a permit or an extension.

- (f) Pursuant to ADEM Admin. Code r. 335-14-8-.01(1)(c), Scope of the AHWMMMA permit requirement. AHWMMMA requires a permit for the "treatment", of any "hazardous waste" as identified or listed in Chapter 335-14-2. ADEM Admin. Code r. 335-14-1-.02 (1)(a). defines treatment to "mean[] any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or as to render such waste non-hazardous or less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume."

At the time of the inspection, ALC was processing MEK spent solvent waste through a coating line at the Facility for the sole purpose of hazardous waste volume reduction. Based on information received from ALC, this activity occurred two times in 2019 and at



least one time in 2018 in addition to this inspection finding. As such, ALC engaged in treatment of hazardous waste without a permit at least four times.

- (g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10., a large quantity generator must prevent unknowing entry into the central accumulation area.

ALC stored hazardous waste, not in satellite accumulation, in an area at the facility that failed to adequately restrict access. Sixteen 55-gallon drums of spent MEK were stored at the front of Coating Line #1.

- (h) Pursuant to ADEM Admin. Code rs. 335-14-3-.01(7)(a)1.(viii) and 335-14-6-.09(6)(b), container storage areas must have a specified containment system.

ALC stored liquid hazardous waste (i.e. MEK spent solvent waste) outside of a containment system. Sixteen 55-gallon drums of spent MEK were stored at the front of Coating Line #1.

- (i) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(v), at least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. The large quantity generator must record inspections in an inspection log or summary. He must keep these records 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.

ALC failed to conduct and document weekly inspections of the following hazardous waste accumulation areas:

- Central Hazardous Waste Accumulation Area;
- A building located next to the Central Hazardous Waste Accumulation Area where hazardous waste was in storage;
- The area located at the front of Coating Line #1 where hazardous waste was in storage.

- (j) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(vi)b., “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

ACL failed to post “No Smoking” signs around ignitable waste located in the building next to the Central Hazardous Waste Accumulation Area, and around the area located at the front of Coating Line #1. Both of these areas had ignitable hazardous waste in storage at the time of the inspection.

- (k) Pursuant to pertinent parts of ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(ii), a sign with the legend, "Danger--Unauthorized Personnel Keep Out", must be posted at each entrance to the central accumulation area, and at other locations, in sufficient numbers to be seen from any approach. The legend must be written in English and in any other language predominant in the workplace and the area surrounding the facility, and must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger—Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

ALC failed to post the required signage around hazardous waste located in central accumulation areas in the building next to the Central Hazardous Waste Accumulation Area, and around the area located at the front of Coating Line #1.

- (l) Pursuant to ADEM Admin. Code r. 335-14-3-01(7)(a)5.(i)a., a large quantity generator must mark or label its containers with the words “Hazardous Waste” and an indication of the hazards of the contents.

ACL failed to label the following 55-gallon containers of MEK spent solvent waste with the words “Hazardous Waste” and an indication of the hazards of the contents:

- Sixteen drums located at the front of Coating Line #1.
- Twelve drums located in the Central Hazardous Waste Accumulation Area.
- Four drums located in the building beside the Central Hazardous Waste Accumulation Area Building.

(m) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i)c., a large quantity generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

ALC failed to mark the following 55-gallon containers of MEK spent solvent waste with accumulation start dates:

- Sixteen drums located at the front of Coating Line #1.
- Twelve drums located in the Central Hazardous Waste Accumulation Area.
- Four drums located in the building beside the Central Hazardous Waste Accumulation Area Building.

(n) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(i)a, facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with 335- 14-3. The large quantity generator must ensure that this program includes all the elements described in the document required under 335-14-3-.01(7)(a)7.(iv).

ALC failed to provide the required training for employees that handle hazardous waste.

(o) Pursuant to ADEM Admin. Code r. 335-14-3-.14(8)(a), A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

ALC failed to provide a contingency plan for review.

(p) Pursuant to ADEM Admin. Code r. 335-14-3-.02(7), A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest: (a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be



economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment."

ALC failed to provide a waste minimization plan for review.

- (q) 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 he receives 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.

ALC failed to provide for review all manifests for the last three years. ALC provided one manifest for review for the last three years.

5. On August 12, 2020, the Department issued a Notice of Violation to ALC, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On September 24, 2020, the Department received ALC's response to the aforementioned Notice of Violation.

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 VIOLATIONS:** In arriving at the civil penalty, 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) THE STANDARD OF CARE: In considering the standard of care manifested by ALC, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, ALC has 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 there was no significant economic benefit gained by ALC as a result of the violations referenced herein.

(d) EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any efforts employed by ALC to mitigate potential effects upon the environment.

(e) HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, ALC has no history of previous violations.

(f) THE ABILITY TO PAY: ALC 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, and has concluded that the civil penalty is appropriate for the violations cited in this Order (see Attachment A, which is made a part of the Department's Contentions) .

8. The Department neither admits nor denies ALC's contentions, which are set forth below. The Department has agreed to the terms of this Special Order by Consent in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Special Order by Consent are in the best interest of the citizens of Alabama.

#### **FACILITY'S CONTENTIONS**



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

### **ORDER**

Therefore, without admitting that it has violated any statutes or regulations, ALC, 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)c. , as amended, as well as the need for timely and effective enforcement and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and ALC agree to enter into this Special Order by Consent with the following terms and conditions:

A. ALC agrees to pay to the Department a civil penalty in the amount of \$79,250 in settlement of the violations alleged herein within forty-five days of the effective date of this Special Order by Consent. 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. ALC agrees that all penalties due pursuant to this Special Order by Consent 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 Special Order by Consent shall reference ALC's name and address, and the ADEM Administrative Order number of this action.

C. ALC agrees that, independent of this Special Order by Consent, ALC shall comply with all terms, conditions, and limitations of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

D. The Department and ALC (“parties”) agree that this Special Order by Consent 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 Special Order by Consent certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Special Order by Consent, to execute the Special Order by Consent 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 Special Order by Consent is intended to operate as a full resolution of the alleged violations cited herein.

F. ALC agrees that it is not relieved from any liability if it fails to comply with any provision of this Special Order by Consent.

G. For purposes of this Special Order by Consent only, ALC 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 Special Order by Consent 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 Special Order by Consent, 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; ALC agrees not to object to such future orders, litigation, or enforcement action based on the issuance of this Special Order by Consent if future orders, litigation, or other enforcement action address new matters not raised in this Special Order by Consent.

I. The parties agree that this Special Order by Consent shall be considered final and effective immediately upon signature of all parties. This Special Order by Consent shall not be appealable, and ALC does hereby waive any hearing on the terms and conditions of this Special Order by Consent.

J. The parties agree that this Special Order by Consent shall not affect ALC's obligation to comply with any federal, State, or local laws or regulations.

K. The parties agree that final approval and entry into this Special Order by Consent 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 parties agree that, should any provision of this Special Order by Consent 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 parties agree that any modifications of this Special Order by Consent must be agreed to in writing signed by both parties.

N. The parties agree that, except as otherwise set forth herein, this Special Order by Consent 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 ALC of its obligations to comply in the future with any permit.

**Executed in duplicate, with each part being an original.**

**American Leakless Company, LLC**

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Eric C Sedensky  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

Eric C. Sedensky  
(Printed Name)  
Facilities and Operations Manager  
(Printed Title)

November 9, 2020  
(Date Signed)

\_\_\_\_\_  
(Date Executed)



**Attachment A**

American Leakless Company LLC  
Athens, Limestone County  
Facility ID No. ALR000048389

| <b>Violation</b>  | <b>Number of Violations*</b> | <b>Seriousness of Violation*</b> | <b>Standard of Care*</b> | <b>History of Previous Violation*</b> |
|---|------------------------------|----------------------------------|--------------------------|---------------------------------------|
| Failure to submit a correct and complete ADEM Form 8700-12  | 1                            | \$250                            | \$250                    | \$0                                   |
| Failure to make a proper waste determination on solvent-contaminated manufacturing waste and rags generated at the facility         | 1                            | \$2,500                          | \$500                    | \$0                                   |
| Failure to prepare a uniform hazardous waste manifest for each shipment of hazardous waste sent for disposal                        | 1                            | \$1,000                          | \$500                    | \$0                                   |
| Offering hazardous waste for disposal to a facility that was not a designated facility or otherwise authorized to receive the waste | 1                            | \$10,000                         | \$1,000                  | \$0                                   |
| Storage of hazardous waste onsite for more than 90 days without a permit or an extension  | 1                            | \$10,000                         | \$1,000                  | \$0                                   |
| Treatment of hazardous waste without a permit   | 4                            | \$40,000                         | \$4,000                  | \$0                                   |
| Failure to prevent unknowing access to areas where hazardous waste is stored  | 1                            | \$1,000                          | \$500                    | \$0                                   |
| Failure to provide containment for all areas where hazardous waste is stored  | 1                            | \$1,000                          | \$500                    | \$0                                   |
| Failure to conduct and document weekly inspections of all hazardous waste accumulation areas  | 1                            | \$1,000                          | \$500                    | \$0                                   |

|  |   |          |          |     |                               |
|--|---|----------|----------|-----|-------------------------------|
| Failure to post "No Smoking" signs around areas where ignitable hazardous waste was stored | 2 | \$200    | \$100    | \$0 |                               |
| Failure to post the required signage around hazardous waste storage areas                  | 2 | \$200    | \$100    | \$0 |                               |
| Failure to mark certain containers with the words "Hazardous Waste"                        | 1 | \$200    | \$100    | \$0 |                               |
| Failure to mark certain containers of hazardous waste with accumulation start dates        | 1 | \$200    | \$100    | \$0 |                               |
| Failure to provide the required training for employees that handle hazardous waste         | 1 | \$1,000  | \$500    | \$0 |                               |
| Failure to provide a contingency plan for review   | 1 | \$100    | \$50     | \$0 |                               |
| Failure to provide a waste minimization plan for review                                    | 1 | \$100    | \$50     | \$0 |                               |
| Failure to provide for review all manifests for the last three years                       | 1 | \$500    | \$250    | \$0 | <b>Total of Three Factors</b> |
| <b>TOTAL PER FACTOR</b>  |   | \$69,250 | \$10,000 | \$0 | \$79,250                      |

**Adjustments to Amount of Initial Penalty**

|   |            |                           |                 |
|---|------------|---------------------------|-----------------|
| Mitigating Factors (-)                        | \$0        | Economic Benefit (+)      | \$0             |
| Ability to Pay (-)                            | \$0        | Amount of Initial Penalty | \$79,250        |
| Other Factors (+/-)                           | \$0        | Total Adjustments (+/-)   | \$0             |
| <b>Total Adjustments (+/-) Enter at Right</b> | <b>\$0</b> | <b>FINAL PENALTY</b>      | <b>\$79,250</b> |

Footnotes

\* See the "DEPARTMENT'S CONTENTIONS" portion of the Order for a detailed description of each violation and the penalty factors.