

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Chemical Waste Management, Inc.
Emelle, Sumter County, Alabama
USEPA Identification Number ALD000622464**

Consent Order No. 24-XXX-CHW

PREAMBLE

This Consent Order is made and entered into by the Alabama Department of Environmental Management ("the Department" or "ADEM") and Chemical Waste Management, Inc. ("CWM") 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. CWM operates a commercial hazardous waste treatment, storage, and disposal Facility under AHWMMA Hazardous Waste Facility Permit Number ALD000622464 ("Facility Permit"), located at 36964 Alabama Highway 17 North in Emelle, Sumter County, Alabama. CWM, as a result of its operations at the Facility, was a hazardous waste treatment, storage, and disposal facility, as well as a large quantity 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 AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

DEPARTMENT'S CONTENTIONS

4. On October 4, 2023, CWM submitted a notification to the Department indicating that waste containing 81 mg/kg reported amenable cyanide and 637 mg/kg reported total cyanide had been disposed in Trench 22 on July 10, 2023. A subsequent review of CWM's compliance showed the following:

Pursuant to Permit Condition VII.I.1., the Permittee shall not place any hazardous waste(s) which is prohibited from land disposal, or which does not meet all applicable land disposal restrictions (LDR) treatment standards (as listed in ADEM Admin. Code R. 335-14-9, incorporating 40 CFR 268), in any landfill cell.

CWM placed hazardous waste that did not meet all applicable land disposal restrictions (LDR) treatment standards in a landfill cell at the Facility. The waste contained 81 mg/kg reported amenable cyanide and 637 mg/kg reported total cyanide, which is above the normal range for the treatment recipe that was subsequently used to treat the waste. This waste is subject to land disposal restrictions, and CWM has not provided sampling data to demonstrate that the applicable treatment standards have been met.

5. On October 26, 2023, the Department issued a Notice of Violation to CWM, which cited the above violation(s) of the Facility Permit.

6. On November 20, 2023, the Department received CWM's response to the above 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 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 CWM, the Department noted that the violation(s) described above were non-technical and easily avoidable. Consequently, CWM failed to exhibit a standard of care commensurate with the applicable regulatory standards and the Facility Permit.

(c) **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has determined that there was no significant economic benefit gained by CWM as a result of the violation(s) referenced herein.

(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 alleged violation(s).

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

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

CWM'S CONTENTIONS

9. CWM performed a root cause analysis and determined that the root cause was an administrative process failure. CWM has implemented the following actions to prevent recurrence of the process failure:

(a) CWM will define the term significant discrepancy in accordance with Alabama Code 335-14-5-.05(3)(b) and create a corresponding list for efficient verification.

(b) CWM will designate a unique row in the waste storage buildings and physically flag all waste that has been categorized as significantly discrepant.

(c) CWM will use an electronic waste tracking system to verify all containers with a "HOLD" process code weekly.

(d) CWM will create a list of authorized personnel allowed to release waste for disposal after on-site treatment.

10. CWM neither admits nor denies the Department's Contentions. CWM consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein. Nothing contained in this Consent Order, nor any action taken in furtherance of this Consent Order, shall constitute or be deemed or construed at any time for any purpose by any third party (including without limitation third parties who might bring claims in any legal, administrative, or other proceeding) as an admission of liability by CWM.

ORDER

Therefore, without admitting that it has violated any statutes or regulations, CWM, along with the Department, desires to resolve and settle the alleged violation(s) 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. The Department believes that the following conditions are appropriate to address the violation(s) alleged herein. Therefore, the Department and CWM agree to enter into this Consent Order with the following terms and conditions:

A. CWM agrees to pay to the Department a civil penalty in the amount of \$9,600.00 in settlement of the violations alleged herein within forty-five days of 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. CWM 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 CWM's name and address, and the ADEM Consent Order Number of this action.

C. CWM agrees to comply with all terms, conditions, and limitations of the Facility Permit, the AHWMMMA, and the regulations promulgated pursuant thereto immediately upon the effective date of this Order and continuing every day thereafter.

D. The Department and CWM ("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 violations cited herein.

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

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

K. 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.

L. 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.

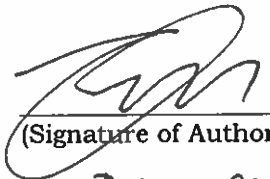
M. The Parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

N. 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 CWM of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

CHEMICAL WASTE MANAGEMENT, INC.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

Lance R. LeFleur
Director

BRYAN CAMPBELL
(Printed Name)

Sr. District Manager
(Printed Title)

2-14-2024
(Date Signed)

(Date Executed)

Attachment A

Chemical Waste Management, Inc.
Emelle, Sumter County
Facility ID No. ALD000622464

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
Placement of hazardous waste in a landfill cell without first demonstrating that the waste meets all applicable LDR treatment standards	1	\$10,000	\$1,000	\$1,000	Total of Three Factors
TOTAL PER FACTOR		\$10,000	\$1,000	\$1,000	\$12,000

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$12,000
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$2,400
Ability to Pay (-)	\$0	FINAL PENALTY	\$9,600
Other Factors (+/-)	-\$2,400		

Footnotes

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