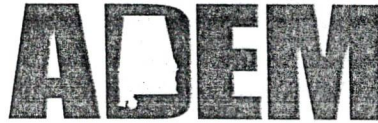


LANCE R. LEFLEUR
DIRECTOR



KAY IVEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

January 9, 2019

CERTIFIED MAIL NO: 91 7199 9991 7030 3272 4639
RETURN RECEIPT REQUESTED

DEEP SEA FOODS INC
ATTN DOUG ROSS
13050 N WINTZELL AVE
BAYOU LA BATRE ALABAMA 36509

Re: Administrative Order No. 19-020-AP

Dear Mr. Ross:

Please find enclosed ADEM Administrative Order No. 19-020-AP which requires certain actions to be taken regarding violations of the Alabama Air Pollution Control Act. In issuing this Order, the Department took into consideration all available information concerning these violations, including any written response or oral comments submitted on behalf of Deep Sea Foods, Inc. Please note that the Department has received the assessed civil penalty.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to \$25,000 per day for each violation as well as possible criminal penalties. Pursuant to Code of Alabama 1975, § 22-22A-7(c)(1), this Order may be appealed by filing a request for hearing before the Environmental Management Commission and should comply with the requirements of ADEM Admin. Code R. 335-2-1-.04. Copies of ADEM Admin. Code, Division 2, Environmental Management Commission regulations may be viewed or downloaded from ADEM's Webpage at <http://www.adem.state.al.us/Regulations/regulations.htm> or may be obtained by submitting a request in writing to the ADEM-Permits & Services Division.

If you have any questions concerning this matter, please contact Don Barron by email at drb@adem.alabama.gov or by phone at (334) 271-7879.

Sincerely,

Ronald W. Gore, Chief
Air Division

RWG/DWB/mcn

Enclosure

Issued: 01-09-2019

Served: 01-14-2019

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:

Deep Sea Foods, Inc.

Bayou La Batre, Mobile County, Alabama

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ADMINISTRATIVE
ORDER NO: 19-020-AP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22- 22A-16 (2006 Rplc. Vol.), the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23 (2006 Rplc. Vol.), the Alabama Department of Environmental Management (hereinafter, the “Department” or “ADEM”) Administrative Code of Regulations (hereinafter, “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. Deep Sea Foods, Inc. (hereinafter, “DSF”) is a seafood company located at 14530 Shell Belt Road in Bayou La Batre, Mobile County, Alabama (hereinafter, the “Site”).

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), 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 (2006 Rplc. Vol.).

4. ADEM Admin. Code r. 335-3-3-.01(2)(b)1 states that “....open burning must take place on the property on which the combustible fuel originates.”

5. ADEM Admin. Code r. 335-3-3-.01(2)(b)4 states that “Only vegetation and untreated wood may be burned. It is unauthorized to open burn heavy oils, asphalt products, plastics, vinyl materials, insulation, paper, cardboard, natural or synthetic rubber, salvage or scrap materials, chemicals, garbage, treated or painted wood, or any trash.”

6. ADEM Admin. Code r. 335-3-3-.01(2)(d) states that “Permission to open burn under the provision of this paragraph is revoked during the months of May, June, July, August, September, and October in Baldwin, DeKalb, Etowah, Jefferson, Lawrence, Madison, Mobile, Montgomery, Morgan, Russell, Shelby, and Talladega Counties.

7. On July 30, 2018, Department personnel observed unauthorized open burning of wood pallets at the Site during the Burn Ban, in violation of ADEM Admin. Code rs. 335-3-3-.01(2)(b)1, 335-3-3-.01(2)(b)4, and 335-3-3-.01(2)(d).

8. 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 violation, 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 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: DSF conducted illegal open burning at the Site during the Burn Ban. The Department considers these violations to be serious.

B. THE STANDARD OF CARE: There appeared to be no care taken by DSF to comply with the applicable requirements of the ADEM Admin. Code rs. 335-3-3-.01(2)(b)1, 335-3-3-.01(2)(b)4, and 335-3-3-.01(2)(d).

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: DSF likely derived economic benefit by not legally disposing of the wood pallets.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There were no efforts taken by DSF to mitigate possible effects of this violation upon the environment.

E. HISTORY OF PREVIOUS VIOLATIONS: DSF has no previous history of violations with the Department for illegal open burning.

F. THE ABILITY TO PAY: DSF 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*, 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 (2006 Rplc. Vol.), it is hereby ORDERED:

A. That, not later than forty-five days after the issuance of this Order, DSF shall pay to the Department a civil penalty in the amount of \$1,500.00 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, DSF shall ensure immediate and future compliance with ADEM Admin. Code rs. 335-3-3-.01(2)(b)1, 335-3-3-.01(2)(b)4, and 335-3-3-.01(2)(d).

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 DSF of its 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 DSF 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 DSF for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 9th day of January, 2019.



Lance R. LeFleur, Director
Alabama Department of Environmental
Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
(334) 271-7700

CERTIFICATE OF SERVICE

I, Ronald W. Gore, do hereby certify that I have served this Administrative Order upon the person(s) listed below by sending the same, postage paid, through the United States Mail **91 7199 9991 7030 3272 4639** with instructions to forward and return receipt, to:

Deep Sea Foods, Inc.
Attn: Doug Ross
13050 N Wintzell Ave
Bayou La Batre, Alabama 36509

DONE this the 9th day of January, 2019.



Ronald W. Gore
Chief - Air Division
Alabama Department of
Environmental Management

ATTACHMENT A

Deep Sea Foods, Inc.
Bayou La Batre, Mobile County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Illegal open burning	1	\$475	\$150	\$0	
Burning during the burn ban	1	\$475	\$150		
					Total of Three Factors
<i>TOTAL PER FACTOR</i>		<i>\$950</i>	<i>\$300</i>	<i>\$0</i>	<i>\$1,250</i>

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

Economic Benefit (+)	\$250
Amount of Initial Penalty	\$1,500
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$1,500.00

Footnotes

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

Track Another Package +

Tracking Number: 9171999991703032724639

Remove X

Expected Delivery by

MONDAY

14 JANUARY 2019 ⓘ by **8:00pm** ⓘ

✓ **Delivered**

January 14, 2019 at 1:24 pm
Delivered, Left with Individual
BAYOU LA BATRE, AL 36509

Get Updates ✓

Feedback

Text & Email Updates



Return Receipt Electronic



Tracking History



January 14, 2019, 1:24 pm

Delivered, Left with Individual
BAYOU LA BATRE, AL 36509

Your item was delivered to an individual at the address at 1:24 pm on January 14, 2019 in BAYOU LA BATRE, AL 36509.

January 14, 2019

In Transit to Next Facility

January 12, 2019, 2:01 pm

Arrived at USPS Regional Facility
MOBILE AL DISTRIBUTION CENTER ANNEX

January 12, 2019, 11:29 am

Departed USPS Regional Facility
MONTGOMERY AL DISTRIBUTION CENTER

January 12, 2019, 1:01 am

Arrived at USPS Regional Facility
MONTGOMERY AL DISTRIBUTION CENTER

January 11, 2019, 11:46 pm

Accepted at USPS Origin Facility
MONTGOMERY, AL 36104

January 11, 2019

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

Feedback

Product Information



See Less ^

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FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)