

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

September 20, 2018

CERTIFIED MAIL NO: 91 7199 9991 7034 1853 5682

CIVILIAN MARKSMANSHIP PROGRAM  
ATTN MR MARK JOHNSON  
1401 COMMERCE BOULEVARD  
ANNISTON AL 36207

Re: Administrative Order No. 18-109-AP

Dear Mr. Johnson:

Please find enclosed ADEM Administrative Order No. 18-109-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 The Corporation for the Promotion of Rifle Practice and Firearms Safety, Inc. DBA Civilian Marksmanship Program. Please note that the assessed civil penalty has been received by the Department.

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](mailto:drb@adem.alabama.gov) or by phone at (334) 271-7879.

Sincerely,

Ronald W. Gore, Chief  
Air Division

RWG/DWB/mcn

Enclosure

cc: Tom Johnston, Office of General Counsel

Birmingham Branch  
110 Vulcan Road  
Birmingham, AL 35209-4702  
(205) 942-6168  
(205) 941-1603 (FAX)

Decatur Branch  
2715 Sandlin Road, S.W.  
Decatur, AL 35603-1333  
(256) 353-1713  
(256) 340-9359 (FAX)



Mobile Branch  
2204 Perimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
(251) 479-2593 (FAX)

Mobile-Coastal  
3664 Dauphin Street, Suite B  
Mobile, AL 36608  
(251) 304-1176  
(251) 304-1189 (FAX)

**Issued: 09-20-2018**

**Served: 09-21-2018**



ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )

The Corporation for the Promotion of Rifle )  
Practice and Firearms Safety, Inc. DBA )  
Civilian Marksmanship Program )

Anniston, Calhoun County, Alabama )

ADMINISTRATIVE  
ORDER NO: 18-109-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. The Corporation for the Promotion of Rifle Practice and Firearms Safety, Inc. DBA Civilian Marksmanship Program (hereinafter, “CMP”) owns property located at 1803 Coleman Road in Anniston, Calhoun 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)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.”

5. On March 9, 2018, Department personnel conducted an inspection of the Site and observed evidence of unauthorized open burning of old stocks, pallets, and wooden boxes in violation of ADEM Admin. Code r. 335-3-3.01(b)(4).

6. On April 13, 2018, the Department issued a Notice of Violation (NOV) to CMP regarding the unauthorized open burning, which requested a written response be received by the Department on or before May 11, 2018.

7. In the May 7, 2018 response to the NOV, CMP admitted to burning broken pallets, broken stocks, and broken wooden boxes twice a year since 2011.

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: CMP conducted illegal open burning of pallets, stocks, and wooden boxes. The Department considers these violations to be serious.

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

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

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There were no efforts by CMP to mitigate possible effects of these violations upon the environment.

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

F. THE ABILITY TO PAY: CMP 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, CMP 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, CMP shall ensure immediate and future compliance with ADEM Admin. Code r. 335-3-3-.01(2)(b)4.

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.

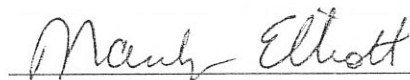
D. Except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State or local law, and shall not be construed to waive or relieve CMP of its obligations to comply in the future with any permit or other written 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 CMP 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 CMP for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 20<sup>th</sup> day of September, 2018.



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

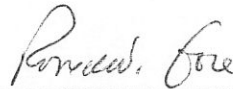


CERTIFICATE OF SERVICE

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 7034 1853 5682** with instructions to forward and return receipt, to:

Civilian Marksmanship Program  
1401 Commerce Boulevard  
Anniston, Alabama 36207

DONE this the 20<sup>th</sup> day of September, 2018.



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



## ATTACHMENT A

### Civilian Marksmanship Program Anniston, Calhoun County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Illegal open burning	1	\$500	\$500	\$0	
					<b>Total of Three Factors</b>
<b><i>TOTAL PER FACTOR</i></b>		<b><i>\$500</i></b>	<b><i>\$500</i></b>	<b><i>\$0</i></b>	<b><i>\$1,000</i></b>

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

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

#### Footnotes

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



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Remove X

Your item was delivered to an individual at the address at 11:22 am on September 21, 2018 in ANNISTON, AL 36207.

 **Delivered**

September 21, 2018 at 11:22 am  
Delivered, Left with Individual  
ANNISTON, AL 36207

Get Updates ✓

Feedback

Text & Email Updates

▼

Tracking History

^

**September 21, 2018, 11:22 am**

Delivered, Left with Individual  
ANNISTON, AL 36207

Your item was delivered to an individual at the address at 11:22 am on September 21, 2018 in ANNISTON, AL 36207.

**September 20, 2018, 8:13 pm**

Departed USPS Regional Facility  
BIRMINGHAM AL DISTRIBUTION CENTER ANNEX

**September 20, 2018, 10:06 am**

Arrived at USPS Regional Facility



BIRMINGHAM AL DISTRIBUTION CENTER ANNEX

**September 20, 2018, 3:36 am**  
Departed USPS Regional Facility  
MONTGOMERY AL DISTRIBUTION CENTER

**September 19, 2018, 11:29 pm**  
Arrived at USPS Regional Facility  
MONTGOMERY AL DISTRIBUTION CENTER

**Product Information**



**See Less** ^

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