

**ALABAMA DEPARTMENT OF
OF ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF)
)
)

OPELIKA FOUNDRY COMPANY)
OPELIKA, LEE COUNTY, ALABAMA)

Air Facility I.D. No. 206-0004)
_____)

CONSENT ORDER
NO. 97-129-CAP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended, and the Alabama Air Pollution Control Act, §§ 22-28-1 through 22-28-23, Code of Alabama 1975, as amended, and the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Alabama Department of Environmental Management (hereinafter the "Department") makes the following FINDINGS:

1. Opelika Foundry Company (hereinafter, Opelika Foundry) operates a gray iron foundry (Air Division facility number 206-0004) in Opelika, Lee County, Alabama. The foundry is located at 1 Williamson Avenue in Opelika, Alabama.

2. The Alabama Department of Environmental Management is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.

3. Pursuant to § 22-22A-4(n), Code of Alabama 1975, as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, §§ 22-28-1 through 22-28-23, Code of Alabama 1975, as amended.

executed 10/28/96
10/25/96 10/29/96

4. On October 14, 1981, under the authority of §22-28-16(a), Code of Alabama 1975, as amended, the Department issued to Opelika Foundry a Permit to Operate (No. 206-0004-Z001) which authorized the operation of Two Cupola Furnaces (7 TPH) with Afterburners and Baghouse, subject to certain conditions and limitations.

5. ADEM Administrative Code 335-3-1-.04 states:

“The Director may require the owner or operator of any air contaminant source to establish and maintain such records; make such reports; install, use, and maintain such monitoring equipment or methods; sample such locations, intervals, and procedures as the Director may prescribe; and provide such periodic emission reports as required in Section 335-3-1-.04(2).”

6. Proviso 6 of Air Permit No. 206-0004-Z001 contains language similar to the above-cited Rule.

7. Through previous correspondence, the Department required Opelika Foundry to submit a cupola bypass report every month.

8. The cupola bypass reports for the months of September 1995, November - December 1995 and January - February 1996 were not submitted until March 14, 1996.

9. During an inspection on March 20, 1996, Department personnel observed visible emissions of twenty-two percent (22%) and twenty-one percent (21%) within a one (1) hour period, as determined by six (6) minute averages, from the exhaust of the cupola baghouse.

10. ADEM Administrative Code 335-3-4-.01 states:

“...no person shall discharge into the atmosphere from any source of emission any air contaminant of an equivalent opacity greater than that designated as twenty percent (20%) opacity, as determined by a six (6) minute average.”

11. No report of a malfunction of control equipment was received by the Department for the aforementioned baghouse malfunction.

12. ADEM Administrative Code 335-3-1-.07 (2) states:

“In the event that any emission source, air pollution control equipment, or related facility fails or breaks down in such a manner as to cause the emission of air contaminants in violation of these rules and regulations, the person responsible for such source, equipment, or facility shall notify the Director within twenty-four (24) hours of such failure or breakdown and provide a statement giving all pertinent facts, including the estimated duration of the breakdown. The Director shall be notified when the condition causing the failure or breakdown has been corrected and such source, equipment, or facility is again in operation.”

13. Proviso 5 of Air Permit No. 206-0004-Z001 contains language similar to the above-cited Rule.

14. During the March 20, 1996, inspection, the Department inspector observed emissions escaping from the cupola bypass stack while the control device was in operation. No application has been submitted for the cupola bypass and the bypass was not listed as an emission point on the application for the cupola.

15. ADEM Admin. Code 335-3-14-.01(1)(a) states:

“Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall submit an application for an Air Permit at least 10 days prior to construction.”

16. A Notice of Violation was sent to Opelika Foundry on April 1, 1996, for having excess opacity from the baghouse exhaust, for not reporting the malfunction of the air pollution control equipment and for operating the cupola with emissions coming from the bypass.

17. On April 25, 1996, Opelika Foundry responded to the Notice of Violation. This response included a schedule to complete repairs to the baghouse by May 18, 1996.

18. During an inspection on June 25, 1996, Department personnel again observed visible emissions from the cupola bypass and repairs to the baghouse had not been completed.

19. Opelika Foundry neither admits nor denies the Findings contained in this consent order. However, in an effort to cooperate with the Department and to resolve the allegations cited above, Opelika Foundry consents to the terms of this Order.

20. The Department agrees to this Consent Order upon a determination that the terms are in the best interests of the citizens of Alabama in resolving the alleged violations cited hereinabove.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-28-10(2) and 22-28-18, Code of Alabama 1975, as amended, and with the consent of Opelika Foundry it is hereby ORDERED:

A. That Opelika Foundry shall comply with all requirements of ADEM Administrative Code 335-3 and the applicable Air Permit that has been issued to Opelika Foundry.

B. That Opelika Foundry shall repair, maintain and operate a control device to minimize the particulate emissions from the two cupolas. This control device shall ensure that the particulate emissions from the cupolas do not exceed the particulate mass emission limit set in ADEM Administrative Code 335-3-4-.05, the opacity limit set in ADEM Administrative Code 335-3-4-.01, and should be operated such that emissions generated by the cupolas are exhausted to the control device.

C. That Opelika Foundry shall submit to the Department by the tenth day of every month a summary of the number of bypasses from the previous month. The reason for each bypass shall be included in the summary.

D. That there is hereby assessed a civil penalty against Opelika Foundry in the amount of \$15,000 to be paid to the Alabama Department of Environmental Management within 30 days of issuance of this Order.

E. That this Consent Order 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 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.

F. That subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Order.

G. That Opelika Foundry is not relieved from any liability if it fails to comply with any provision of the Consent Order.

H. That for purposes of this Order only, Opelika Foundry agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. Opelika Foundry also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Opelika Foundry shall be limited to the defenses of Force Majeure, compliance with this Agreement and physical impossibility.

I. That this Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning Opelika Foundry, which would constitute possible violations not addressed in this Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriated, and Opelika Foundry shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

J. That by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Respondent does hereby waive any hearing on the terms and conditions of same.

J.M. Manning
(Signature)
J.M. MANNING
(Please Print Name and Title of Authorized Officer)

Opelika Foundry Company

James W. Warr
James W. Warr, Director
Alabama Department of
Environmental Management

ORDERED and ISSUED this 24th day of October, 1996.
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