

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF)
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OPELIKA FOUNDRY COMPANY)
OPELIKA, LEE COUNTY, ALABAMA)
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Air Facility I. D. No. 206-0004)
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_____)

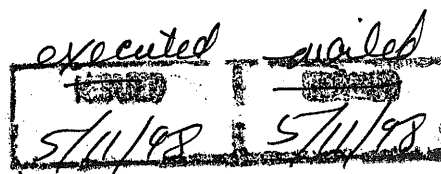
CONSENT ORDER
No. 98-079-CAP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended, 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.

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. On April 4, 1996, 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-X002) which authorized the operation of a Replacement Shakeout with Baghouse common to Grinding Operation (X003) and Sand System (X004), subject to certain conditions and limitations.

6. On September 6, 1994, 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-X003) which authorized the operation of Grinders with Baghouse Common to Shakeout (X002) and Sand System (X004), subject to certain conditions and limitations.

7. On September 6, 1994, 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-X004) which authorized the operation of a Sand System with Baghouse common to Shakeout (X002) and Grinding operation (X003), subject to certain conditions and limitations.

8. ADEM Administrative Code 335-3-1-.04(1) 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).

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

10. Paragraph "C" of Consent Order No. 97-129-CAP, dated October 24, 1996, states:

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.

11. In a letter dated October 30, 1991, the Department required Opelika Foundry to maintain a record of every cupola bypass incident. This letter also required Opelika Foundry to report, as soon as possible by phone, any bypass that exceeded thirty (30) minutes.

12. On March 19, 1997, inspectors from the Department observed Opelika Foundry bypassing the cupola baghouse. The bypass period was not properly recorded on the Cupola Bypass Log by Opelika Foundry. Inspectors observed the bypass begin at approximately 12:05 PM. The operator recorded the bypass beginning at "1325" (1:25 PM).

13. A review of the Cupola Bypass Log for January, February, March and April of 1997 shows five periods when the cupola baghouse was bypassed longer than 30 minutes. These periods were recorded at the following times:

Date	Time	Duration (Minutes)
1/30/97	0555	55
2/13/97	0830	45
4/9/97	1210	40
4/17/97	0935	40
4/30/97	1335	35

14. The Department was not notified in a timely manner of the above bypasses which exceeded thirty (30) minutes.

15. During an inspection on April 8, 1997, no visible emissions were observed by Department inspectors from the cupola bypass or the cupola baghouse stack.

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

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

17. Department personnel conducted an inspection on April 10, 1997, in response to a complaint received on the date of the inspection. Visible emissions of forty-four percent (44%) opacity, as determined by a six-minute average, were observed from the cupola bypass stack at 1:07 PM. Visible emissions of forty-three percent (43%) opacity, as determined by a six-minute average, were observed from the cupola baghouse stack at 1:21 PM.

18. 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.

19. During inspections on March 19 and April 10, 1997, inspectors from the Department observed visible emissions from the cupola bypass stack. 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.

20. ADEM Admin. Code 335-3-7-.01 states:

No person shall emit the carbon monoxide gases generated during the operation of a gray iron cupola, blast furnace, or basic oxygen steel furnace unless they are burned at 1300°F for 0.3 seconds or greater in a direct flame afterburner or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

21. During an inspection on April 22, 1997, an inspector from the Department observed the operation of the cupola without the required afterburner in operation. During the inspection, Opelika Foundry personnel started the afterburner and it appeared to operate normally.

22. A Notice of Violation was sent to Opelika Foundry on May 30, 1997, for not properly reporting the cupola baghouse bypasses, for not properly recording cupola baghouse bypasses, for having excess opacity from the cupola bypass and the cupola baghouse exhaust, for operating the cupola with emissions from the bypass and for not operating the cupola afterburner.

23. On June 12, 1997, Opelika Foundry responded to the Notice of Violation.

24. ADEM Admin. Code 335-3-1-.07(1) states:

In the case of shutdown of air pollution control equipment (which operates pursuant to any permit issued by the Director) for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Director at least twenty-four (24) hours prior to the planned shutdown, unless such shutdown is accompanied by the shutdown of the source which such equipment is intended to control.

25. Proviso 5 of Air Permit No. 206-0004-X002 and Proviso 4 of Air Permit Nos. 206-0004-X003, X004 contain language similar to the above-cited Rule.

26. ADEM Admin. 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.

27. Proviso 6 of Air Permit No. 206-0004-X002 and Proviso 5 of Air Permit Nos. 206-0004-X003, X004 contain language similar to the above-cited Rule.

28. In response to complaints received on October 15, 1997, inspectors from the Department performed an inspection on October 16, 1997. The complainants reported dust from Opelika Foundry falling out on their vehicles. During the inspection, inspectors observed the sand system, shakeout, and grinders operating without the associated baghouse in operation. An operator stated that the baghouse had not been started the day of the inspection so that Opelika Foundry could repair the baghouse.

29. The Department was not notified that the baghouse had malfunctioned. The Department was not notified that the baghouse was to be shut down for repairs while its associated air pollution sources were in operation.

30. During the October 16, 1997, inspection, Department inspectors observed the cupola operating with its afterburner temperature indicating 1,000°F. When the operator was questioned why the afterburner temperature was so low, he adjusted the low temperature set point to 1,300°F and the temperature quickly rose to 1,600°F.

31. A Notice of Violation was sent to Opelika Foundry on October 24, 1997, for not reporting the malfunction with the sand system, shakeout, and grinder baghouse, for not reporting that this baghouse would be shut down for maintenance, for operating the cupola afterburner below 1300°F, for not properly reporting the bypass of the cupola baghouse, and for operating the cupola with emissions from the bypass.

32. On November 5, 1997, Opelika Foundry responded to the Notice of Violation.

33. On December 30, 1997, in further response to the matters addressed in the Notices of Violation referenced above, Opelika Foundry submitted a proposed compliance plan for the cupolas and associated systems.

34. 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.

35. 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 Permits that have been issued to Opelika Foundry.

B. That on or before June 15, 1998, Opelika Foundry shall submit to the Department a compliance schedule for continuing to operate the cupola furnaces or replacing the cupola furnaces. This submittal shall contain a copy of the purchase orders for all major equipment required for the completion of the compliance schedule. Upon approval of the schedule by the Department, Opelika Foundry shall complete all actions contained in the schedule on or before

the dates contained in the schedule. Failure of Opelika Foundry to submit this schedule by June 15, 1998 or to complete the compliance schedule by January 1, 1999, will be a violation of this Consent Order and Opelika Foundry may be subject to stipulated penalties as specified in paragraphs F, G, and H of this Consent Order.

C. That in the event Opelika Foundry elects to continue operating the existing cupola furnaces, after January 1, 1999, Opelika Foundry shall continue to maintain and operate control devices to minimize the particulate and carbon monoxide emissions from the two cupolas. These control devices 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 devices.

D. That if Opelika Foundry decides to replace the cupola furnaces, after January 1, 1999, Opelika Foundry shall not operate the cupola furnaces.

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

F. That if Opelika Foundry shall fail to submit a compliance schedule with a copy of the required purchase orders by June 15, 1998, it shall pay to the Department a stipulated penalty of \$10,000.

G. That if Opelika Foundry shall fail to complete the compliance schedule as approved by the Department by January 1, 1999 and continues operating the cupola furnaces, it shall pay to the Department a stipulated penalty of \$10,000.

H. That in the event Opelika Foundry fails to complete the compliance schedule by January 1, 1999 and said schedule has not been completed by March 1, 1999 and Opelika Foundry continues to operate the cupola furnaces, it shall pay to the Department an additional stipulated penalty of \$10,000.

I. That the Department will notify Opelika Foundry of any violations subject to paragraphs B via a Notice of Violation (NOV) and that the NOV will specify when payment of the stipulated penalty is due.

J. That if Opelika Foundry does not complete the compliance plan as approved by the Department, any violations of the compliance schedule occurring after March 2, 1999 may be addressed in future enforcement actions including but not limited to administrative order or judicial action.

K. That in the event Opelika Foundry notifies the Department that it is abandoning the compliance schedule or in the event the Department independently confirms that Opelika Foundry is abandoning or has abandoned the compliance schedule, this Consent Order notwithstanding, the Department may elect to take additional enforcement action against Opelika Foundry and Opelika Foundry shall be estopped from invoking the terms of this Consent Order as grounds for objecting to the enforcement action.

L. 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.

M. 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.

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

O. 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.

P. 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.

Q. 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.

ORDERED and ISSUED this 11th day of may, 1998.

Wayne G. Rydecki
(Signature)

WAYNE G. RYDECKI V.P. and GENERAL Mgr
(Please Print Name and Title of Authorized Officer)

Opelika Foundry Company

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