

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
Hyundai Motor Manufacturing Alabama, LLC)
Montgomery, Montgomery County, Alabama) CONSENT ORDER NO. 21- -CAP
ADEM Air Facility ID No. 209-0090)

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and Hyundai Motor Manufacturing Alabama, LLC ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code, §§ 22-22A-1 through 22-22A-17, as amended, the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 to 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

- 1. The Permittee operates an automobile manufacturing plant, ADEM Air Division Facility No. 209-0090 ("Facility"), located in Montgomery County in Montgomery, Alabama.
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), 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 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, as amended.

4. On February 4, 2019, the Department issued Title V Operating Permit No. 209-0090 (“Permit”) to the Permittee, subject to certain conditions and requirements.

5. The following production units are among those regulated by the Permit: Motor Vehicle Assembly Plant with Water Curtains, Regenerative Thermal Oxidizer (RTO), and Low NOx Burners; Two 24.494 MMBTU/HR Natural Gas Fired Boilers (HW 1, 2); Storage Tanks with Stage I Recovery; No. 2-Engine Test Dynamometer w/ catalytic oxidizer (ES-17); No. 3-Engine Test Dynamometer w/ catalytic oxidizer (ES-17); No. 5-Engine Test Dynamometer w/ catalytic oxidizer (ES-19); No. 6-Engine Test Dynamometer w/ catalytic oxidizer (ES-19); Two NG/LPG fired Generators; and Two Diesel fired Generators.

6. Permit Proviso Section No. 2.6 for the Motor Vehicle Assembly Plant with Water Curtains, Regenerative Thermal Oxidizer (RTO), and Low NOx Burners states, in part, that the Oven Exhaust for RTO-1 is subject to a Best Available Control Technology (BACT) requirement of achieving 95% destruction efficiency of Volatile Organic Compounds (VOC).

DEPARTMENT'S CONTENTIONS

7. On May 23, 2017, the Permittee conducted a stack test on the RTO, which showed a destruction efficiency of 99.9% of VOC for the 3-hour period.

8. On August 5, 2020, the Permittee conducted a stack test on the RTO control device with the results being submitted on September 2, 2020. The test results indicated a destruction efficiency of 92.6%, in violation of the Permit requirement of at least 95% destruction. This test result is assumed to be the test efficiency of the RTO until the next accepted test event approved by ADEM, assuming that the Permittee maintains the required temperature and maintenance requirements for the RTO system.

9. On August 24, 2020, the Permittee submitted an electronic message to the Department detailing the following:

A. On August 9, 2020, it confirmed the closed damper position on the RTO;

B. On August 15, 2020, it had DURR (the installer of the RTO) take pressure readings and discovered a 1000 scfm loss across the RTO media;

C. On August 16, 2020, it had DURR complete a RTO media investigation;

D. It planned on issuing a Purchase Order for the RTO media replacement on September 28, 2020; and

E. It plans to install the new RTO media replacement on December 26, 2020.

10. On September 9, 2020, the Permittee attempted to retest the RTO, but preliminary test data did not support achieving the required permit limit under the conditions on that day.

11. 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: The Department considers the Permittee's failure to properly identify and report possible RTO degradations and failure to maintain a 95% destruction efficiency during operations to be serious violations.

B. THE STANDARD OF CARE: The Permittee demonstrated an inadequate standard of care by:

(1) Failing to properly identify and report possible RTO degradations and perform needed repairs since the last testing in 2017;

(2) Operating the Facility below the required minimum destruction efficiency on the RTO for the timeframe for some time since the successful May 23, 2017 stack test and August 5, 2020, and,

(3) Continuing to operate the Facility below the required minimum destruction efficiency on the RTO since the August 5, 2020 test failure.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Permittee likely derived some economic benefit from its non-compliance.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Permittee has listed efforts to minimize or mitigate the effects of the violations upon the environment in the Permittee's Contentions Section of this Consent Order.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department has a record of air pollution emission violations at the Facility within the last five years, including a Consent Order issued to the Permittee on December 16, 2016.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty in this matter to resolve this matter amicably without incurring the unwarranted expense of litigation.

12. 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, based upon the foregoing and attached contentions, has concluded that the civil penalty assessed herein is appropriate (*See* “Attachment A”, which is hereby made a part of the Department’s Contentions).

13. The Department neither admits nor denies Permittee’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 violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE’S CONTENTIONS

14. The Permittee neither admits nor denies the Department’s contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

15. The RTO Destruction Efficiency Compliance Testing was originally scheduled for April 14, 2020, but was postponed due to the COVID-19 pandemic.

16. The Permittee acknowledges a failure to achieve the 95% destruction efficiency threshold for RTO-1 during testing on August 5, 2020. The Permittee reported the issue to

ADEM as soon as it was discovered and immediately made several efforts to increase destruction efficiency and to minimize and mitigate any environmental effects, including quickly investigating and adjusting all RTO dampers so that they were completely closed. To confirm proper damper functionality, the Permittee installed temporary shims in the cylinder rod gaps. The Permittee also arranged for the RTO manufacturer to be onsite at their earliest opportunity to conduct an internal and external inspection of RTO-1. In addition, the Permittee requested to have the stack testing contractor return as quickly as possible to re-test the destruction efficiency of RTO-1. Finally, the Permittee has been running bake-out programs as frequently as possible on RTO-1 to improve filter media functionality.

17. As detailed in prior correspondence, on December 26 and 27, 2019, HMMA replaced the hydraulic cylinders on all RTO dampers as per manufacturer drawings, which specify a cylinder stroke length of 6". However, upon further investigation, HMMA personnel determined that 6-1/2" was more effective in completely closing the dampers. Were it not for this underlying issue, RTO degradations could have been identified and reported earlier.

18. The Permittee was not operating the Paint Shop during the following periods, thereby decreasing the total number of hours that RTO-1 was operating below the required destruction efficiency: March 18, 2020 to April 27, 2020 due to the COVID-19 pandemic; and June 15, 2020 to June 29, 2020 due to the normally-scheduled Summer Shutdown.

19. The first RTO re-test attempt was on September 9 and 10, 2020. Following this, the Permittee rebalanced Paint Shop oven airflows to optimize the air pressure being pulled by RTO-1. This rebalancing was performed the week of September 21, 2020. Because 95% destruction efficiency was not achieved during the re-test, the Permittee arranged to have the stack testing contractor return as quickly as possible for a second re-test. Before the second re-

test occurred, the Permittee entered RTO-1 and removed (via vacuuming) as much loose debris from within the combustion chamber as possible.

20. The second re-test of RTO-1 occurred on October 28, 2020, and preliminary results indicate an average destruction efficiency of 95% over the 3-hour testing period, thereby regaining compliance with the Title V Operating Permit, Unit No.1 Proviso 2.6. An official report is forthcoming.

21. The Permittee has already made several capital expenditures in order to address and rectify this compliance issue as quickly as possible; these expenditures include:

A. a combined \$47,000 for both RTO destruction efficiency re-test efforts conducted in 2020,

B. \$6,846 for DURR to conduct their internal and external inspection of RTO-1,

C. \$11,133 to machine new permanent shims for the RTO dampers, which will serve as a long-term countermeasure to prevent cylinders sized to the manufacturer's specifications from causing similar problems in the future,

D. a combined \$17,674 to check Paint Shop process airflows to RTO-1 and perform the oven airflow rebalancing, and

E. \$5,907 for other cleaning and maintenance work to improve the functionality of RTO-1.

22. The Permittee is already committed to making additional capital expenditures in order to ensure RTO-1 is performing at optimal levels, regardless of the results of the destruction efficiency re-test on October 28, 2020; these expenditures include:

A. \$399,895 to contract DURR to replace all RTO filter media bricks in December 2020, a project originally scheduled for the 2021 Summer Shutdown, and

B. an estimated \$15,000 to conduct additional destruction efficiency testing in January 2021, following the brick replacement.

23. In total, the Permittee will have put forth approximately \$503,455 in order to make necessary equipment repairs and regain destruction efficiency on RTO-1 prior to the payment of the Consent Order.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues 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, and that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$100,000.00 in settlement of the violations alleged herein within forty-five days from 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. The Permittee 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 and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management

P.O. Box 301463
Montgomery, Alabama 36130-1463

C. The Permittee agrees that it shall replace the RTO media, check/reset the damper gaps, and perform other necessary maintenance items at the Facility to ensure the RTO meets the required destruction efficiency no later than the December 2020/January 2021 shutdown time-period or no later than January 15, 2021.

D. The Permittee agrees that it shall conduct a compliance test on the RTO at the Facility to show compliance with the required 95% destruction efficiency no later than February 26, 2021.

E. The Permittee agrees to comply with the terms, limitations, and conditions of the Permits and the Department's regulations immediately upon the effective date of this Consent Order and every day thereafter.

F. The parties agree 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.

G. The parties agree 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 alleged violations and/or deviations, which are cited in this Consent Order.

H. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

I. For purposes of this Consent Order only, the Permittee 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. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

J. The Department and the Permittee 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 concerning the Facility 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 action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

K. The Department and the Permittee agree that final approval and entry into this 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 Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

M. The Department and the Permittee agree that final approval and entry into this 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.

N. The Department and the Permittee agree 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.

O. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

P. The Department and the Permittee agree that, 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 the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

Robert Burns

(Signature of Authorized Representative)

Lance R. LeFleur
Director

Robert Burns

(Printed Name)

Vice President - HR and Administration

(Printed Title)

November 13, 2020

(Date Signed)

(Date Executed)

Attachment A

**HMMA, LLC
Montgomery, Montgomery County**

Air Facility ID No. 209-0090

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Exceedance of VOC Limitations	50	\$80,000	\$35,000	\$5,000	
					Total of Three Factors
TOTAL PER FACTOR		\$80,000	\$35,000	\$5,000	\$120,000

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	-20,000
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-) Enter at Right	\$-20,000

Economic Benefit (+)	
Amount of Initial Penalty	\$120,000
Total Adjustments (+/-)	\$-20,000
FINAL PENALTY	\$100,000

Footnotes

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