

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
Sanders Lead Company, Inc.)
Troy, Pike County, Alabama) CONSENT ORDER NO.
ADEM Air Facility ID No. 210-0005)

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and Sanders Lead Company, Inc. ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 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. Sanders Lead Company, Inc. ("Permittee") operates a secondary lead smelting facility, ADEM Air Facility ID No. 210-0005 ("Facility") located in Troy, Pike County, 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. The Permittee operates the facility pursuant to the authority of Major Source Operating Permit No. 210-0005 (“Permit”).

5. “Provisos for Blast Furnaces 1 – 4 and Agglomeration Furnace (Stack 15)” Emission Standards Proviso No. 2 of the Permit requires that the Permittee limit emissions from the furnaces, as measured at the outlet of Stack 15, to 0.258 pounds of lead per hour.

6. “Provisos for Blast Furnaces 1 – 4 and Agglomeration Furnace (Stack 15)” Emission Monitoring Proviso No. 5(a)i of the Permit requires that the Permittee must maintain and operate the continuous emissions monitoring system (“CEMS”) installed at the outlet of Stack 15 in accordance with Performance Specification 2 of 40 CFR Part 60, Appendix B. This performance specification requires, in part, that the CEMS must measure emissions with no more than 20% deviation from simultaneous measurements via the reference method test (“relative accuracy”).

7. “Provisos for Slag Treatment Facility (Stack 10)” Emission Standards Proviso No. 2 of the Permit requires that the Permittee limit emissions from the slag treatment operations, as measured at the outlet of Stack 10, to 0.008 pounds of lead per hour.

8. “Provisos for Blast Furnace Canopy Hoods and Building Ventilation (Stack 11)” Emission Standards Provisos No. 1 of the Permit requires that the Permittee limit emissions from the furnace building ventilation and canopy hoods, as measured at the outlet of Stack 11, to 2.04 pounds of particulate matter per hour.

9. “Provisos for Blast Furnace Canopy Hoods and Building Ventilation (Stack 11)” Emission Standards Provisos No. 2 of the Permit requires that the Permittee limit emissions from the furnace building ventilation and canopy hoods, as measured at the outlet of Stack 11, to 0.067 pounds of lead per hour.

DEPARTMENT’S CONTENTIONS

10. Between November 2 and 6, 2023, the Permittee conducted compliance testing of particulate matter and lead emissions from Stacks 10, 11, and 15 at the Facility. Additionally, on November 3, 2023, the Permittee conducted a relative accuracy test audit (“RATA”) on the sulfur dioxide CEMS installed at the outlet of Stack 15.

11. On December 21, 2023, the Permittee submitted a test report of the compliance testing to the Department. In this test report, the Permittee certified that the findings indicated noncompliance with the Permit. On the same day, the Permittee also submitted an audit report on the RATA conducted on the CEMS, wherein the Permittee certified that the findings indicated noncompliance with the Permit.

12. The test report indicated that lead emitted from Stack 15 at an average rate of 0.26 lb/hr during the compliance testing, exceeding the 0.258 lb/hr limit in the Permit. The Department’s subsequent review of the test report concurred with this finding and calculated the lead emission rate to be 0.262 lb/hr.

13. The test report indicated that lead emitted from Stack 10 at an average rate of 0.014 lb/hr during the compliance testing, exceeding the 0.008 lb/hr limit in the Permit.

14. The test report indicated that lead emitted from Stack 11 at an average rate of 0.11 lb/hr during the compliance testing, exceeding the 0.067 lb/hr limit in the Permit.

Additionally, particulate matter emitted at an average rate of 5.2 lb/hr during the compliance testing, exceeding the 2.04 lb/hr limit in the Permit.

15. The audit report indicated that the sulfur dioxide CEMS installed on Stack 15 demonstrated 34.56% relative accuracy during the RATA, exceeding the 20% relative accuracy limit in Performance Specification 2 and the Permit.

16. On January 17, 2024, the Department issued a Notice of Violation to the Permittee for the exceedances observed during compliance testing and the RATA.

17. In addition to noting the violations that occurred during the compliance testing and the RATA, the Department requested within the Notice of Violation that the Permittee specify a construction deadline for the additional baghouse and HEPA filter (Stack 17) that must be added to the blast furnace canopy hoods and building ventilation system.

18. On February 14, 2024, the Permittee responded to the Notice of Violation, citing inexperience among air quality systems personnel as the primary contributing factor to the exceedances observed during compliance testing. The Permittee stated, in part, "Due to this inexperience, the inspection of all AQS [Air Quality System] systems was not completed adequately prior to the facility's source testing in November 2023."

19. In the response to the Notice of Violation, the Permittee identified better personnel training, updates to the standard operating procedures for inspecting and maintaining air quality systems, and improvements to system alarms as corrective actions for the aforementioned violations.

20. Additionally, the Permittee stated in the response to the Notice of Violation that Stack 17 would be constructed and erected "sometime in 2025" following progression

on the projects to raise the heights of Stacks 4, 10, and 14 and to install and connect an emergency generator to the “emission control system”. The Permittee stated, “Once these projects are underway and moving to completion, construction on Stack 17 will get underway.”

21. 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 multiple exceedances of Permit emission limits during the November 2 through 6, 2023 stack testing to be serious violations. The Department also considers the Permittee’s deviation from the CEMS relative accuracy standard observed during the November 3, 2023, RATA to be a serious violation.

B. THE STANDARD OF CARE: The Permittee failed to exhibit a sufficient standard of care by exceeding one particulate matter emission limit, multiple lead emission

limits, and the CEMS relative accuracy standard in the Permit. In admitting to a lapse in their standard of care, the Permittee cited inadequate inspection of air quality systems prior to the compliance testing; the Department notes that the Permittee must exhibit a high standard of care at all times, not merely prior to compliance testing.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is unaware of any economic benefit that the Permittee may have derived by failing to comply with the emission limits and the CEMS relative accuracy standard.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any efforts by the Permittee to minimize or mitigate the effects of these violations on the environment. The violations listed herein result directly from the Permittee's insufficient adherence to operating procedures and maintenance plans.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department issued a Notice of Violation on January 29, 2020, and October 27, 2021, for unrelated violations. On October 27, 2022, the Permittee conducted stack testing, and the subsequent test report indicated that the particulate matter emitting from Stack 11 exceeded the 2.04 lb/hr limit in the Permit at an average rate of 3.5 lb/hr during the compliance testing; results from the January 13, 2023 retest indicated a particulate matter emission rate of 1.1 lb/hr.

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 in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

22. 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 herein is appropriate (*See* “Attachment A”, which is hereby made a part of the Department’s Contentions).

23. The Department neither admits nor denies the 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

24. The Permittee neither admits nor denies the Department’s Contentions. The Permittee consents to comply with the terms of this Consent Order and to pay the civil penalty assessed herein. The Permittee’s entry into this Consent Order and agreement to pay the penalty assessed herein should in no way be deemed an admission of liability.

25. The Permittee took immediate and substantial efforts to minimize or mitigate the effects of any alleged violation upon the environment. The Permittee has devoted considerable resources towards addressing these issues as part of its commitment

to operate its facility in full compliance with its permits and applicable laws and regulations.

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 the Department has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$200,000.00 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 to comply with all requirements of ADEM Administrative Code div. 335-3 and the Permit immediately upon the effective date of this

Order and continuing every day thereafter. In addition, the Permittee agrees that the following emission improvement projects approved by the Department shall be constructed and operable by June 30, 2025:

(1) The additional baghouse and HEPA filter (Stack 17) to the building ventilation system, as permitted under Air Permit 210-0005-X035.

(2) The addition of an emergency generator providing power for the blast furnace canopy hoods and building ventilation system (Stack 11), as permitted under Air Permit 210-0005-X036.

(3) The project to increase the heights of Stacks 4, 10, and 14, via retrofit, replacement, or consolidation.

This section or any other terms and conditions of this Consent Order shall not preclude the Permittee from requesting and obtaining a modification of the Permit for the Facility in the future to incorporate applicable regulatory changes and/or more current operating conditions including, but not limited to, updates or modifications to emission sources.

D. 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.

E. 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 violations which are cited in this Consent Order.

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

G. 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.

H. 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.

I. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of the same.

J. 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.

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, 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.

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

N. 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.

SANDERS LEAD COMPANY, INC.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT


(Signature of Authorized Representative)

Lance R. LeFleur
Director

Kenneth Campbell
(Printed Name)

President
(Printed Title)

Date Signed: 7/15/24

Date Executed: _____

Attachment A

**Sanders Lead Company, Inc.
Troy, Pike County**

ADEM Air Facility ID No. 210-0005

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Exceedance of 0.258 lb/hr lead limit (Stack 15)	23	\$40,000.00	\$30,000.00	-	
Exceedance of CEMS 20% relative accuracy standard (Stack 15)	1	\$5,000.00	\$5,000.00	-	
Exceedance of 0.008 lb/hr lead limit (Stack 10)	23	\$40,000.00	\$30,000.00	-	
Exceedance of 2.04 lb/hr PM limit (Stack 11)	23	\$15,000.00	\$10,000.00	\$5,000.00	
Exceedance of 0.07 lb/hr lead limit (Stack 11)	23	\$40,000.00	\$30,000.00	-	Total of Three Factors
TOTAL PER FACTOR		\$140,000.00	\$105,000.00	\$5,000.00	\$250,000.00

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	-\$50,000.00
Total Adjustments (+/-)	-\$50,000.00

Economic Benefit (+)	
Amount of Initial Penalty	\$250,000.00
Total Adjustments (+/-)	-\$50,000.00
FINAL PENALTY	\$200,000.00

Footnotes

* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors. The number of violations accounts for the number of days between each performance test date and the date that the results were analyzed and indicated failure.