

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )
Henry Brick Company, Inc. )
Selma, Dallas County, Alabama ) CONSENT ORDER NO.
ADEM Air Facility ID No. 104-0005 )

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("the Department" and/or "ADEM") and Henry Brick 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. The Permittee operates a brick manufacturing facility ("Facility") located in Selma, Dallas County, Alabama (ADEM Air Facility ID No. 104-0005).
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 a Shale Preparation Process; Clay Preparation and Storage Process; Color, Texture and Forming Process; two Brick Dryers; and two Tunnel Kilns (“Tunnel Kiln 1” and “Tunnel Kiln 2”), each with a Dry Limestone Adsorber (“DLA”), at the Facility pursuant to the authority of Major Source Operating Permit (MSOP) No.: 104-0005 (“Permit”).

5. General Permit Proviso 21(b) of the Permit states: “Deviations from permit requirements shall be reported within 48 hours or 2 working days of such deviations, including those attributable to upset conditions as defined in the permit. The report will include the probable cause of said deviations, and any corrective actions or preventive measures that were taken.”

6. Recordkeeping and Reporting Requirements Proviso 1 of numerous sections of the Permit states: “The facility shall maintain a record of all inspections, including visual emission checks, any problems noted and corrective actions taken, performed to satisfy the requirements of periodic monitoring. Each record shall be maintained in a form suitable for inspection for a period of at least five (5) years.”

7. As stated in the Permit, Tunnel Kiln 1 and Tunnel Kiln 2 are subject to the applicable requirements of 40 CFR Part 63, Subpart JJJJJ, *National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing* (“MACT JJJJJ”).

8. Emission Monitoring Proviso 2 of the *Provisos for Tunnel Kilns* section of the Permit and §63.8420(c) of MACT JJJJJ state in part: “The facility must prepare and implement a written operation, maintenance, and monitoring (OM&M) plan according to the requirements in §63.8425.” The OM&M plan requires the Permittee to maintain 80

tons of limestone in the limestone hopper, storage bin, and dry lime adsorber at all times. In the event that this level of limestone is not maintained, the OM&M plan requires the Permittee to conduct corrective actions in the form of manually charging the limestone until an adequate amount of limestone can be delivered.

9. §63.8405(b) of MACT JJJJJ states in part that the Permittee must meet each operating limit in Table 2 to MACT JJJJJ that applies. Item 1(b) of Table 2 to MACT JJJJJ states in part that the Permittee must maintain the limestone feeder setting (on a per ton of fired product basis) at or above the level established during the HF/HCl/Cl<sub>2</sub> performance test in which compliance was demonstrated.

#### DEPARTMENT'S CONTENTIONS

10. On May 20, 2025, the Department conducted an inspection of the Facility. Records were reviewed at the time of the inspection, and additional records were requested after the inspection via email.

11. In conducting the record review, the Department found that records of the weekly visible emission checks of the emission points in the Shale Preparation Process, Clay Preparation and Storage Process; Color, Texture and Forming Process; and Brick Dryers in addition to daily visible emission checks of the Tunnel Kilns, for the period from March 25, 2025, to May 20, 2025, were not maintained as required by the Permit.

12. Records for the period from January 1, 2024, to June 13, 2025, showed that Tunnel Kiln 1's DLA was below 80 tons of limestone for 139 days during the review period, and Tunnel Kiln 2's DLA was below 80 tons of limestone for 294 days during the review period, including the day of the inspection.

13. In response to an inquiry from the Department, the Permittee reported that corrective actions required by the OM&M plan when limestone levels drop below 80 tons were not taken on any day throughout the period of January 1, 2024, to June 13, 2025.

14. The daily records of the limestone feeder setting were being maintained in pounds of lime fed per hour rather than pounds of lime fed per ton of fired product. Records for January 1, 2024, to June 13, 2025, were created and submitted to the Department on July 14, 2025, which showed that the required limestone feeder settings established in the most recent performance test were not met for 338 days for Tunnel Kiln 1 and 288 days for Tunnel Kiln 2 during the period reviewed.

15. The issues noted in Stipulations 11 through 14 were not reported to the Department within 48 hours or 2 working days in accordance with General Permit Proviso 21(b) of the Permit.

16. On August 11, 2025, the Department issued a Notice of Violation (“NOV”) to the Facility for the violations listed in Stipulations 11 through 15.

17. On September 10, 2025, the Permittee submitted a response to the NOV, proposing corrective actions to prevent issues from occurring again. The Permittee stated that they implemented corrective actions such as monitoring the limestone levels in the silos daily by using bindicators and inventory sheets, increasing personnel training and review of the OM&M plan involving deviations from limestone level requirements, relocating the binders for visible emission checks in a more convenient and accessible location, and editing the daily production spreadsheet to calculate and record the pounds of lime fed per ton of fired bricks in response to the violations identified by the Department.

18. 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 document the required visual emission checks for an extended amount of time; failure to maintain limestone level in the limestone hopper, storage bin, and DLA above 80 tons; failure to conduct corrective actions when the limestone level in the limestone hopper, storage bin, and DLA was below 80 tons; failure to maintain daily limestone feeder settings for Tunnel Kiln 1 and Tunnel Kiln 2 above the levels established during the most recent performance test; and failure to report deviations as required by General Permit Proviso 21(b) to be serious violations. However, the Department is not aware of any irreparable harm to the environment resulting from these violations.

B. THE STANDARD OF CARE: The Permittee failed to exhibit a sufficient standard of care by failing to document the required visual emission checks for an extended

amount of time; failing to maintain limestone level in the limestone hopper, storage bin, and DLA above 80 tons; failing to conduct corrective actions when the limestone level in the limestone hopper, storage bin, and DLA was below 80 tons; failing to maintain daily limestone feeder settings for Tunnel Kiln 1 and Tunnel Kiln 2 above the levels established during the most recent performance test; and failing to report deviations as required by General Permit Proviso 21(b).

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any evidence indicating that the Permittee received any significant economic benefit from these violations.

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 prior to the issuance of the NOV.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department issued a Notice of Violation on November 24, 2024, for unrelated violations.

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.

19. 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).

20. 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

21. 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.

22. The Permittee states that the failure to document the required visual emission checks for an extended amount of time as required was due to personnel changes. However, the Permittee notes that the visible emission checks were completed but were not recorded. The Permittee affirms that there have been no incidents of visible emissions since the installation of the control devices in 2008.

23. The Permittee states that the failure to maintain daily limestone feeder settings for Tunnel Kiln 1 and Tunnel Kiln 2 above the levels established during the most recent performance test was due to the Permittee using the requirements of the 2005 MACT JJJJ rule. This rule only states a requirement to maintain the reagent feed rate established in the most recent stack test. During the May 20, 2025, inspection, the Department

discovered that the Permittee's OM&M plan cited the aforementioned requirement. The Department noted that the OM&M plan should have been updated and reagent feed rates should have reflected the changes made in the 2018 MACT JJJJJ rule which required the reagent feed rate to be expressed in pounds of reagent per ton of fired brick throughput for a given 24-hour period. The Permittee notes that the Department was not aware of this issue on previous inspections.

24. Resulting calculations produced by the Permittee, as required by the Department, demonstrated multiple 24-hour periods where the pound per ton feed rates were below the required rate; however, the calculations also displayed an almost equivalent number of days where the reagent rate was above the required rate. The average of these periods demonstrated achievement of target feed rates but not on some 24-hour periods.

25. To address the Department's concerns on whether the Permittee exceeded the HCl equivalent emission limits required in the 2018 MACT JJJJJ rule, the Permittee agreed to perform a stack test on each control device on Tunnel Kiln 1 and 2. The January 13 and 14, 2026, stack test utilized a reagent feed rate in pounds per ton of fired brick at a minimum of 50% lower than the lowest 24-hour feed rate cited in the Consent Order period in question. The stack test results revealed that the combined site emissions for the two tunnel kilns were 17.3% of the required 2015 MACT JJJJJ HCl equivalent limit.

26. The Permittee notes that the "Comply with OM&M plan" violation is not accurate since the OM&M plan referenced in the Consent Order timeframe did not specify the pound per fired ton requirement of the 2015 MACT JJJJJ rule.

27. The Permittee was unaware of the issues stated in the Department's contentions until the issuance of the Notice of Violation on August 11, 2025; therefore, the

Permittee failed to report deviations to the Department as required by General Permit Proviso 21(b).

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 \$25,000.00 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.

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 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.

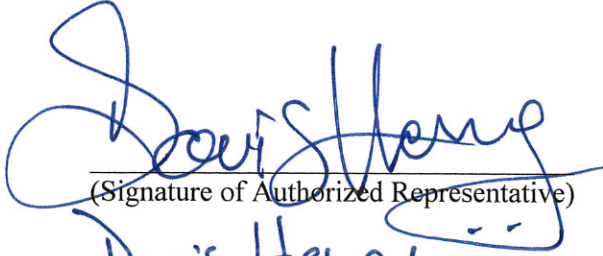
M. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

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.

HENRY BRICK COMPANY, INC.

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT



\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Edward F. Poolos  
Director

Davis Henry  
\_\_\_\_\_  
(Printed Name)

President  
\_\_\_\_\_  
(Printed Title)

Date Signed: 4/15/26

Date Executed: \_\_\_\_\_

**Attachment A**

**Henry Brick Company, Inc.**

**Selma, Dallas County**

**ADEM Air Facility ID No. 104-0005**

<b>Violation*</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violations*</b>	<b>Total of Three Factors</b>
Failure to maintain weekly / daily visible emission checks	92	\$3,500	\$1,800	-	\$5,300
Failure to maintain lime feed rate/comply with OM&M plan <sup>1</sup>	626	\$39,100	\$23,500	-	\$62,600
Failure to report deviations within 48 hours or 2 days	1	\$600	\$400	-	\$1,000
<b>TOTAL PER FACTOR</b>		<b>\$43,200.00</b>	<b>\$25,700.00</b>	<b>\$0,000.00</b>	<b>\$68,900.00</b>

<b>Adjustments to Amount of Initial Penalty</b>	
<b>Mitigating Factors (-)</b>	-
<b>Ability to Pay (-)</b>	-
<b>Other Factors<sup>1</sup> (+/-)</b>	-\$43,900
<b>Total Adjustments (+/-)</b>	-\$43,900

<b>Economic Benefit (+)</b>	-
<b>Amount of Initial Penalty</b>	\$68,900.00
<b>Total Adjustments (+/-)</b>	-\$43,900.00
<b>FINAL PENALTY</b>	\$25,000.00

Footnotes

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

<sup>1</sup> Subsequent emission testing was performed January 13 and 14, 2026, on Tunnel Kiln 1 and 2 to show compliance with HCl equivalent emissions. The facility was able to maintain compliance using a reduced limestone feed rate, which demonstrated that the facility did not violate emission limits established by the OM&M plan.