


**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of:	)	
	)	
NATIONAL CEMENT COMPANY OF	)	
ALABAMA, INC.	)	
	)	CONSENT ORDER NO. <u>99-040-CAP</u>
Ragland, St. Clair County, Alabama	)	
	)	

**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 hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. National Cement Company of Alabama, Inc. (hereinafter "NCC") operates a Portland Cement production plant (Air Facility ID No. 410-0002) located at 80 National Cement Drive, Ragland, St. Clair County, 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.

*executed mailed*  


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. ADEM Admin. Code R. 335-3-1-.07 lists the Department's reporting requirements for maintenance and malfunction of equipment. ADEM Admin. Code R. 335-3-14-.01 lists the Department's general provisions for obtaining Air Permits. ADEM Admin. Code R. 335-3-14-.03 lists the Department's standards for granting Air Permits.

5. On November 14, 1997, an inspector from the Department observed the clinker conveying system covered by Air Permit No. 410-0002-X004. The inspector noted that two baghouses associated with this system were not operating during the inspection. Also, excess emissions were observed from several points around the clinker barn and clinker bays. Due to the poor weather conditions during the inspection, a visible emissions observation could not be performed on the emissions from these points.

6. On December 17, 1997, the Department issued a Notice of Violation to NCC citing violations of ADEM Admin. Code R. 335-3-1-.07, ADEM Admin. Code R. 335-3-14-.01, and ADEM Admin. Code R. 335-3-14-.03.

7. NCC responded to this Notice of Violation on or around January 20, 1998.

8. On February 28, 1992, the Department issued to NCC Air Permit No. 410-0002-X003 for the operation of a Cement Kiln System, subject to certain limitations and conditions. ADEM Admin. Code R. 335-3-10-.02(4) incorporates by reference the Federal New Source Performance Standards for Portland Cement Plants. According to Proviso 13 of Air Permit No. 410-0002-X003, the Kiln System is subject to these standards. 40 CFR 60.62(a)(2) limits the gases from any kiln to an opacity of not greater than 20%.

9. On May 28, 1998, an inspector from the Department observed visible emissions of 35% opacity, as determined by a six minute average, from the Electrostatic Precipitator that controls the emissions from the kiln system covered by Air Permit No. 410-0002-X003.

10. On January 11, 1991, the Department issued to NCC Air Permit No. 410-0002-Z010 for the operation of a Clinker Cooler, subject to certain limitations and conditions. According to Proviso 12 of Air Permit No. 410-0002-Z010, the Clinker Cooler is subject to the Federal New Source Performance Standards for Portland Cement Plants. 40 CFR 60.62(b)(1) limits particulate matter (PM) emissions from clinker coolers to 0.10 lb/ton of feed to the kiln.

11. Under the cover letter dated June 2, 1998, NCC submitted to the Department the results of the two PM emissions tests that were performed on the clinker cooler on May 13-15, 1998. The results of these tests indicated PM emissions of 0.135 lb/ton of feed to the kiln and 0.16 lb/ton feed to the kiln.

12. On June 19, 1998, the Department issued a Notice of Violation to NCC citing violations of ADEM Admin. Code R. 335-3-10-.02(4), 40 CFR 60.62(a)(2) and 40 CFR 60.62(b)(1).

13. On July 8, 1998, NCC responded to the Notice of Violation.

14. NCC 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, NCC consents to the terms of this Order.

15. 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 NCC it is hereby ORDERED:

A. That there is assessed a civil penalty against NCC in the amount of Twenty Thousand Dollars (\$20,000) to be paid to the Alabama Department of Environmental Management within thirty (30) days of issuance of this Order.

B. That NCC shall comply with all requirements of ADEM Administrative Code 335-3 and the applicable Air Permits that have been issued to them.

C. That NCC shall maintain and operate control devices to minimize the emissions from the Cement Kiln System and the Clinker Cooler.

D. That NCC shall continue to take steps to minimize emissions from the Clinker Conveying System. NCC shall submit to the Department quarterly, reports on the progress of the steps taken to minimize these emissions.

E. That within 30 days of issuance of this Order, NCC shall submit to the Department a plan, including timelines, concerning the ultimate modification to the clinker storage and conveying system.

F. That within 30 days of issuance of this Order, NCC shall submit to the Department a plan detailing procedures for kiln shutdown so as to minimize emissions during said shutdowns.

G. That NCC shall conduct quarterly particulate matter emissions tests on the Clinker Cooler for eight consecutive calendar quarters beginning with the calendar quarter

ending March 31, 1999. NCC shall submit the results of said tests to the Department within 15 days of completion of the test. After three consecutive particulate emissions tests of the clinker cooler which show PM emissions within the allowable PM limit, NCC may petition the Department to waive the requirement for the remainder of the quarterly tests and to return to annual testing of the clinker cooler.

H. 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.

I. 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 or referenced in this Order.

J. That NCC is not relieved from any liability if it fails to comply with any provision of the Consent Order.

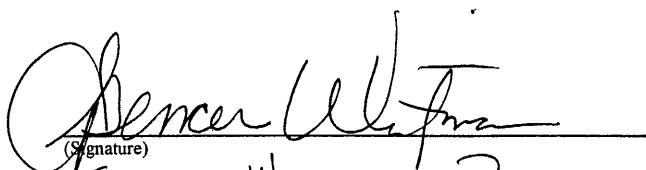
K. That for purposes of this Order only, NCC agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. NCC also agrees that in any action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

L. 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

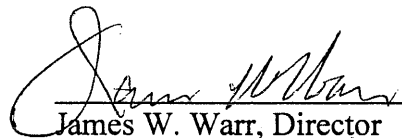
facts and circumstances be discovered in the future concerning NCC, which would constitute possible violations not addressed in this Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders or litigation initiated by the Department, or such other enforcement action as may be appropriate, and NCC shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

M. 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 NCC does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 15<sup>th</sup> day of January, 1999.

  
(Signature)  
SPENCER WEITMAN - PRESIDENT  
(Please Print Name and Title of Authorized Officer)

National Cement Company of Alabama, Inc.

  
James W. Warr, Director  
Alabama Department of  
Environmental Management