

# ADEM

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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ONIS "TREY" GLENN, III, P.E.

DIRECTOR

BOB RILEY

GOVERNOR

February 23, 2005

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Laboratory: 277-6718

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Mr. Phillip Gray  
Director, EHS  
Citation Corporation  
2700 Corporate Drive  
Suite 100  
Birmingham, AL 36242

RE: Citation Aluminum, LLC  
Consent Order 05-051-CAP

Dear Mr. Gray:

Please find enclosed ADEM Consent Order No. 05-051-CAP which requires Citation Aluminum LLC to take certain actions in regard to alleged violations of the Alabama Air Pollution Control Act. This Order has been issued with the consent of Citation Aluminum LLC and the Department. Please refer to Order Item A., which requires the monetary penalties be paid within 45 days of the date of this Order.

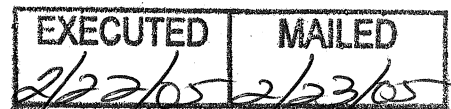
If you have any questions concerning this matter, please contact Brad Williard at (334) 274-4157 in Montgomery.

Sincerely,

Ronald W. Gore, Chief  
Air Division

Enclosure

cc: Olivia Rowell, Office of General Counsel ✓



Birmingham Branch  
110 Vulcan Road  
Birmingham, Alabama 35209-4702  
(205) 942-6168  
(205) 941-1603 [Fax]

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Decatur, Alabama 35603-1333  
(256) 353-1713  
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**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

\_\_\_\_\_  
In The Matter Of: )

**Citation Aluminum, LLC** )  
Baldwin County, Alabama )  
Air Facility ID No. 501-0022 )  
\_\_\_\_\_ )

**CONSENT ORDER NO. 05 -051 -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 hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. **Citation Aluminum, LLC** (hereinafter "Citation Aluminum") operates an aluminum foundry (Air Facility ID No. 501-0022) in Bay Minette, Baldwin County, Alabama. The foundry is located at 43575 Nicholsville Road, Bay Minette 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. ADEM Admin. Code R 335-3-15-.04(f) states:

The facility shall obtain a Synthetic Minor Operating Permit prior to beginning operation of the new or modified stationary source and shall notify the Department at least ten (10) days prior to beginning such operation.

5. ADEM Admin. Code R 335-3-15-.04(g) states:

Any stationary source applying for a Synthetic Minor Operating Permit shall submit applications for a Synthetic Minor Operating Permit at least 10 days prior to construction except as specified in subparagraph 3 (c) of this Rule

6. On September 27, 2004, the Department issued a Notice of Violation (NOV) to Citation Aluminum for failure to obtain a Synthetic Minor Operating Permit at least 10 days prior to construction of a Vibramill Sand/Casting Separator and failure to obtain a Synthetic minor operating permit and notify the Department at least 10 days prior to operation of the Vibramill Separator, as required under ADEM Admin. Code R. 335-3-15-.04(f) and (g).

7. The Department received Citation Aluminum's response to the NOV on or about October 12, 2004. Citation Aluminum changed their work practices section in their ISO 14001 Management System to include obtaining a Synthetic Minor Operating Permit 10 days prior to construction of an emission source.

8. Citation Aluminum neither agrees nor disagrees with the Findings presented in this Consent Order, but, in an effort to cooperate with the Department and to comply with the

provisions of the Air Pollution Control Act, Citation Aluminum agrees to the terms of this Consent Order.

9. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in this Consent Order, and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

## **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 Citation Aluminum it is hereby ORDERED:

A. That, not later than forty-five (45) days after the effective date of this Consent Order, Citation Aluminum shall pay to the Department a civil penalty in the amount of Ten Thousand Dollars (\$10,000) for the violations cited herein. In determining the penalty amount set forth herein, the Department considered the statutorily prescribed factors set forth at Code of Alabama (1975), §22-22A-5(18)(c), as amended. All penalties due pursuant to this order shall be made payable to the Alabama Department of Environmental Management by certified or cashiers check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P. O. Box 301463  
Montgomery, Alabama 36130-1463

B. That Citation Aluminum shall comply with ADEM Admin. Code R 335-3-15-.04(f) and 335-3-15-.04(g).

C. 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.

D. 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.

E. That Citation Aluminum is not relieved from any liability if it fails to comply with any provision of the Consent Order.

F. That, for purposes of this Consent Order only, Citation Aluminum 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. Citation Aluminum also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Citation Aluminum 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 Citation Aluminum, 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 be beyond the reasonable control of Citation Aluminum) and which delays or prevents performances 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*.

G. 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 shall 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 Citation Aluminum 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.

H. That, by agreement of the parties, this Consent Order shall be considered final and effective immediately upon execution signature by all parties. This Consent Order shall not be appealable, and Citation Aluminum does hereby waive any hearing on the terms and conditions of same.

Executed in Duplicate with each part being an original.

**Citation Aluminum, LLC**

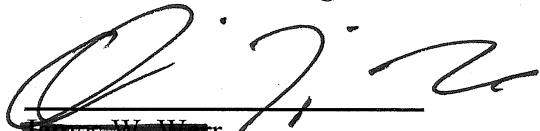
  
(Name of Authorized Representative)

TIMOTHY J. ZEH General Manager  
(Printed Name and Title)

Date Signed: 1/4/05

**Alabama Department of**

**Environmental Management**

  
~~James W. Warr~~  
Director (~~Acting~~)

Date Signed: 2/22/05