



**REGION 7**

LENEXA, KS 66219

**ELECTRONIC MAIL AND CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

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Heidelberg Materials US Cement LLC  
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[patrick.karamaga@heidelbergmaterials.com](mailto:patrick.karamaga@heidelbergmaterials.com)

Re: Heidelberg Materials US Cement LLC  
Demand for Stipulated Penalties Pursuant to the Consent Agreement and Final Order:  
EPA Docket No. CAA 07-2021-0012.

Dear Messrs. Bergere and Karamaga:

Pursuant to Paragraph 55 of the Consent Agreement and Final Order dated November 17, 2021, this letter constitutes a formal written demand for certain stipulated penalties that Complainant, the United States Environmental Protection Agency, finds have accrued for CAFO violations at the Heidelberg Materials LLC ("Heidelberg") Portland Cement plant located at 700 25<sup>th</sup> Street NW, Mason City, Iowa. A Notice of Non-Compliance was sent to Heidelberg by e-mail on September 19<sup>th</sup>, 2022. This demand is based upon the evaluation of relevant documents, including but not limited to, documents submitted in response to the September 19, 2022 Notice along with documents Heidelberg submitted in response to EPA's September 27, 2022 Clean Air Act Section 114 Information Request, stack tests, and semi-annual and annual reports submitted in accordance with the CAFO, and records publicly available from Iowa Department of Natural Resources.

As detailed below, Heidelberg's own submissions document violations of the CAFO. The violations, corresponding stipulated penalties demanded, and procedures for payment are outlined below.

**I. VIOLATION AND STIPULATED PENALTY DEMAND**

**Failure to Submit Stack Test Reports Containing All Data required by CAFO Paragraph 50(a)**

Paragraph 50(a) of the CAFO states, “For EP 25, conduct quarterly stack tests for a period of one year, beginning 90 days after the Effective Date of this Consent Agreement for PM as required in 40 C.F.R. Part 63, Subpart LLL. All stack test reports will include data on operational parameters of the control equipment (*i.e.*, ESP Voltage, ESP amperage, ESP Total Power).”

On June 22, 2022, the EPA received Heidelberg’s report dated June 14, 2022, for stack tests conducted pursuant to Paragraph 50(a) that ended on May 6, 2022. This report did not include the data on operational parameters of the control equipment as required by Paragraph 50(a). Heidelberg did not submit that operational data until October 18, 2022, in response to EPA’s September 27, 2022, CAA Section 114 information request.

On July 22, 2022, the EPA received Heidelberg’s report dated July 19, 2022, for stack tests conducted pursuant to Paragraph 50(a) that ended on June 17, 2022. This report did not include the data on operational parameters of the control equipment as required by Paragraph 50(a). Heidelberg did not submit the operational data until October 18, 2022, in response to EPA's September 27, 2022, CAA Section 114 information request.

Paragraph 52(a) of the CAFO provides the following per day stipulated penalties per violation for failure to certify and submit reports and deliverables to the EPA and Iowa DNR as required by Paragraph 50:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500	1 <sup>st</sup> through 15 <sup>th</sup> day
\$1,000	15 <sup>th</sup> day and beyond

The violations lasted from the time Heidelberg was required to submit each incomplete report, per Paragraph 50, until it submitted the missing data with its response to the CAA Section 114 information request- a total of 107 and 65 days, respectively. Therefore, the stipulated penalties are as follows:

15 days x \$500 = (\$7,500 for each test) \$15,000 total for both reports  
107 and 65 days x \$1,000= (\$107,000 and \$65,000) \$187,000 total for both reports

**II. SUMMARY OF STIPULATED PENALTIES DEMANDED**

In summary, EPA has calculated a total of **\$187,000** in stipulated penalties for the CAFO violations referenced above.

On March 28, 2024, the Department of Justice (DOJ) received a letter from Heidelberg addressing the December 27, 2023 letter from the DOJ and a September 30, 2022 letter from EPA. Based on the information submitted in Heidelberg’s letter, EPA will not assess a stipulated penalty for the violations of Paragraph 50(b) and 50(c) at this time.

### III. STIPULATED PENALTY PROCEDURES

As provided in CAFO Paragraph 55, stipulated penalties shall be paid no later than thirty (30) days after Heidelberg receives a stipulated penalty demand from EPA in the manner set forth in the CAFO. Therefore, payment shall be made within thirty (30) days of the date of this letter using the procedures set forth in Paragraphs 47-49 of the CAFO.<sup>1</sup> If Heidelberg disputes any of the stipulated penalties, please notify EPA within fourteen (14) days after the receipt of this letter.

Thank you for your attention to this matter. Please contact Sara Hertz Wu at (913) 551-7316 or by email at [hertzwu.sara@epa.gov](mailto:hertzwu.sara@epa.gov), if you have questions.

Sincerely,

Jodi Bruno  
Acting Director  
Enforcement and Compliance Assurance Division

cc: Adam Swercheck, Environmental Director, Heidelberg Materials, LLC  
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Brian Hutchins, Environmental Program Supervisor, Iowa Department of Natural Resources  
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Rachel Hankey, Department of Justice  
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<sup>1</sup>EPA notes that Paragraph 56 states, "The stipulated penalties provided for in this Consent Agreement shall be in addition to any other rights, remedies, or sanctions available to EPA for Respondent's violation of this Consent Agreement or applicable law. Where a violation of this Consent Agreement is also a violation of statutory or regulatory requirements, Respondent shall be allowed a credit for any stipulated penalties paid against any statutory penalties imposed for such violation." In accordance with this Paragraph, EPA reserves the right to seek, in addition to the stipulated penalties demanded herein, injunctive relief and mitigation for these violations and/or statutory penalties for any CAFO violations that are also violations of the Clean Air Act.

bcc: Sara Hertz Wu, ORC  
Tracey Casburn, ECAD  
Joe Terriquez, ECAD  
Amy Gonzalez, RHC