

FILED

December 21, 2024

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**U.S. EPA REGION 7
HEARING CLERK**

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219**

In the Matter of:

Continental Cement Company, LLC,

Respondent.

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Docket No. CAA 07-2024-0077

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (the EPA or Complainant), and Continental Cement Company, LLC (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties initiated pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve (12) months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors in 40 C.F.R. Part 63, Subpart EEE, promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and that Respondent is therefore in violation of Section 112 of the CAA, 42 U.S.C. § 7412. Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of the EPA.

4. Respondent is Continental Cement Company, LLC, a limited liability company in good standing under the laws of the State of Delaware and doing business in the State of Missouri, which owns and operates a hazardous waste burning Portland cement kiln located at 10107 Highway 79 South in Hannibal, Missouri (Respondent's Facility).

Statutory and Regulatory Background

5. The CAA was promulgated "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C. § 7401(b)(1).

6. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" as an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

7. Section 112 of the CAA, 42 U.S.C. § 7412, authorizes the Administrator of the EPA to regulate hazardous air pollutants (HAPs) that may have an adverse effect on health or the environment. The Administrator established emissions standards, the National Emissions Standards for Hazardous Air Pollutants (NESHAPs), which apply to specific categories of major sources and area sources that emit listed HAPs. The NESHAPs are developed and implemented by the EPA and are delegated to the states. However, even when delegated to the states, the EPA retains the authority to implement and enforce the NESHAPs.

8. Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3), defines "stationary source" as any building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. § 7412(a)(3).

9. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines "major source" as any stationary source or group of stationary sources located in a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, ten (10) tons per year or more of any single HAP or twenty-five (25) tons per year or more of any combination of HAPs.

10. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), the EPA promulgated the NESHAP from Hazardous Waste Combustors (HWC MACT) at 40 C.F.R. Part 63, Subpart EEE. The HWC MACT establishes emission standards, monitoring and compliance provisions, and notification, reporting, and recordkeeping requirements for all hazardous waste combustors, which includes hazardous waste cement kilns.

11. Section 112(i)(3)(A), 42 U.S.C. § 7412(i)(3)(A), prohibits any person from operating a source subject to any emissions standard, limitation or regulation promulgated under Section 112 in violation of such standard, limitation or regulation.

12. Under Section 112(l) of the CAA, 42 U.S.C. § 7412(l), States can develop and submit for approval a program for the implementation and enforcement of emissions standards.

The program may provide for full or partial delegation of the Administrator's authorities but will not allow a State to include less stringent standards. Missouri accepted delegation of 40 C.F.R. Part 63, Subpart EEE, on February 28, 2019.

13. 40 C.F.R. Part 63 applies to the owner or operator of any stationary source that – (i) emits or has the potential to emit any HAP listed in or pursuant to section 112(b) of the CAA; and (ii) is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to this part. 40 C.F.R. § 63.1(b)(1).

14. For purposes of Part 63, an “affected source” is “the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the Act.” 40 C.F.R. § 63.2.

15. Pursuant to 40 C.F.R. § 63.4(a)(1), “no owner or operator subject to the provisions of this part must operate any affected source in violation of the requirements of this part.” 40 C.F.R. § 63.4(a)(1).

16. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), authorizes the Administrator of the EPA to issue an administrative order against any person assessing a civil penalty of up to twenty-five thousand dollars (\$25,000) per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of the CAA referenced therein, including Section 112, and the implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to fifty-seven thousand six hundred seventeen dollars (\$57,617) for violations that occur after November 2, 2015, and for which penalties are assessed on or after December 27, 2023.

General Factual Allegations

17. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

18. Respondent is, and at all times referred to herein was, the owner and/or operator of a Portland cement kiln located at 10107 Highway 79 South, Hannibal, Missouri.

19. Respondent's Facility is a “stationary source” as that term is defined in Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3).

20. Respondent's Facility is a major air emissions source as defined at Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1).

21. Because Respondent's Portland cement kiln is a hazardous waste combustor, Respondent's Facility is subject to the standards of 40 C.F.R. Part 63, Subpart EEE.

22. Emissions from Respondent's kiln are controlled by three baghouses, known as the main baghouse, the coal mill baghouse, and the alkali bypass baghouse.

23. Respondent is subject to the Title V permitting program, 42 U.S.C. § 7661a. The Missouri Department of Natural Resources issued Title V Operating Permit OP2021-020 to Respondent's Facility on August 11, 2021. The permit currently has an expiration date of August 11, 2026. The permit specifically states that Respondent's Facility is subject to, among other regulations, the requirements of 40 C.F.R. Part 63, Subpart EEE. Respondent's Coal/Coke Mill; Coal/Coke Mill Preheater; Main Stack – Cement Kiln; and Alkali Bypass Baghouse (Emission Units CG-23; CG-25; KP-08; and KP-10) are subject to 40 C.F.R. Part 63, Subpart EEE.

24. On December 14-15, 2022, a duly authorized representative from EPA Region 7 conducted a partial compliance inspection at Respondent's Facility. This inspection evaluated Respondent's compliance with 40 C.F.R. Part 63, Subpart EEE.

25. The EPA inspection identified that Respondent failed to meet the particulate matter (PM) standard set forth in 40 C.F.R. § 63.1220(b)(7)(i) during a performance test performed on July 18, 2022. In addition, the Missouri Department of Natural Resources provided information to the EPA that Respondent failed to meet the PM standard set forth in 40 C.F.R. § 63.1220(b)(7)(i) during performance tests performed on July 23, 2020, and May 20, 2021.

26. The EPA inspection further revealed that the environmental manager could not recall any bag leak detection system alarms at Respondent's Facility for the three years prior to the inspection.

27. On December 14, 2023, the EPA sent an information request to Respondent pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), which required Respondent to provide the EPA with specific data regarding PM emissions, PM control equipment and monitoring equipment, and PM loadings at each bag leak detection system in use at Respondent's Facility, in order to assess Respondent's compliance status with 40 C.F.R. Part 63, Subpart EEE.

28. On March 1, 2024, and April 8, 2024, Respondent submitted responses to the Section 114(a) request.

29. In the March 1, 2024, response to the Section 114(a) request, Respondent stated its own evaluation of the bag leak detection systems at Respondent's Facility determined that the main baghouse bag leak detection system was set with a truncated range.

30. In the March 1, 2024, response to the Section 114(a) request, Respondent stated its own evaluation of the bag leak detection systems at Respondent's Facility determined that the alkali bypass baghouse bag leak detection system was not responding to site conditions.

31. On May 6, 2024, the EPA issued a Finding of Violation to Respondent for violations of 40 C.F.R. Part 63, Subpart EEE.

Allegations of Violation

32. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows.

33. For each count below, the facts stated in Paragraphs 17 through 31 are herein incorporated.

Counts 1–2

34. The regulation at 40 C.F.R. § 63.1206(c)(8)(i)(A) requires, in relevant part, the owner or operator of a combustor equipped with a baghouse to continuously operate a bag leak detection system that meets the specifications and requirements of paragraph (c)(8)(ii) and that complies with the corrective measures and notification requirements of paragraphs (c)(8)(iii) and (iv).

35. The main and alkali bypass baghouse bag leak detection systems did not alarm during the performance tests described in Paragraph 25 above, and the EPA inspection found that Respondent did not have any records of bag leak detection system alarms at Respondent's Facility for the three years prior to the inspection date.

36. Respondent's failure to ensure the bag leak detection systems on the main and alkali bypass baghouses were continuously operating to meet the specifications and requirements of 40 C.F.R. § 63.1206(c)(8)(ii), as required by the HWC MACT, violates 40 C.F.R. § 63.4(a)(1) and 42 U.S.C. § 7412(i)(3)(A).

Counts 3–4

37. The regulation at 40 C.F.R. § 63.1206(c)(8)(iii)(A) requires the owner or operator of a hazardous waste combustor equipped with a baghouse bag leak detection system to initiate the procedures in its operating and maintenance plan to determine the cause of an alarm or bag leak detection system malfunction within thirty (30) minutes of the time the alarm first sounds.

38. The regulation at 40 C.F.R. § 63.1206(c)(8)(iii)(B) requires the owner or operator to alleviate the cause of a bag leak detection system alarm or malfunction by taking the necessary corrective measures of Paragraph (c)(8)(iii)(B)(1) through (6).

39. The lack of any bag leak detection system alarms at the main and alkali bypass baghouses demonstrated an alarm or system malfunction. Between January 1, 2020, and December 31, 2023, Respondent failed to: 1) initiate procedures in its operating and maintenance plan to determine the cause of the main and alkali bypass baghouse bag leak detection system alarms and/or malfunctions, and 2) alleviate the alarms or malfunctions of the main and alkali bypass baghouse bag leak detection systems by taking the necessary corrective actions.

40. Respondent's failures to identify and alleviate alarms or malfunctions of the main and alkali bypass baghouse bag leak detection systems, as required by the HWC MACT, violates 40 C.F.R. § 63.4(a)(1) and 42 U.S.C. § 7412(i)(3)(A).

Count 5–6

41. The regulation at 40 C.F.R. § 63.1206(c)(8)(iv) requires the owner or operator to submit a notification to the Administrator if the bag leak detection system exceeds the alarm set-point or is malfunctioning more than five (5) percent of the time during any six-month block time period. The notification must be submitted within thirty (30) days of the end of the six-month block time period. The notification must describe the causes of the exceedances and bag leak detection system malfunctions and detail the revisions to the design, operation, or maintenance of the baghouse or bag leak detection system to minimize exceedances and bag leak detection system malfunctions.

42. Between January 1, 2020, and December 31, 2023, Respondent failed to submit notifications to the Administrator describing the cause of any exceedances or malfunctions of the main and alkali bypass baghouse bag leak detection systems as required by § 63.1206(c)(8)(iv).

43. Respondent's failure to submit the required notifications pursuant to 40 C.F.R. § 63.1206(c)(8)(iv) violates 40 C.F.R. § 63.4(a)(1) and 42 U.S.C. § 7412(i)(3)(A).

Count 7–8

44. The regulation at 40 C.F.R. § 63.1206(c)(1)(iii) sets forth the general operating requirements for hazardous waste combustors, including a provision that the failure to comply with the operating requirements is a failure to ensure compliance with the emission standards of 40 C.F.R. § 63.1220.

45. Respondent's failure to comply with the operating requirements for hazardous waste combustors in 40 C.F.R. § 63.1206(c), including operating the main and alkali bypass baghouse bag leak detection systems according to the bag leak detection system requirements set forth at 40 C.F.R. § 63.1206(c)(8), as described in Counts 1–6 above, is a failure to ensure compliance with the emission standards of 40 C.F.R. § 63.1220.

46. Respondent's failure to comply with the HWC MACT operating requirements violates 40 C.F.R. § 63.4(a)(1) and 42 U.S.C. § 7412(i)(3)(A).

CONSENT AGREEMENT

47. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits the jurisdictional allegations set forth herein;
- b. neither admits nor denies the specific factual allegations stated herein;

- c. consents to the assessment of a civil penalty, as stated herein;
- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to any conditions specified herein;
- f. consents to any stated Permit Action;
- g. waives any right to contest the allegations set forth herein; and
- h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

48. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

49. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein and to completion of the supplement environmental project (SEP) described below.

50. Respondent and the EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

51. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: *palumbo.antonette@epa.gov* (for Complainant) and *tim.noud@continentalcement.com* (for Respondent). Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

Penalty Payment

52. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of seventy-four thousand four hundred forty dollars (\$74,440) as set forth below.

53. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

54. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Antonette Palumbo, Attorney
palumbo.antonette@epa.gov.

55. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

56. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (TIN), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:

- i. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- ii. Respondent shall certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- iii. Respondent shall email its completed Form W-9 to the EPA’s Cincinnati Finance Center at weidner.lori@epa.gov within thirty (30) days after the

Final Order ratifying this Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and

- iv. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within thirty (30) days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall notify the EPA of this fact within thirty (30) days after the Effective Date of this Consent Agreement and Final Order, and email the EPA with Respondent's TIN within five (5) days of Respondent's issuance and receipt of the TIN.

Supplemental Environmental Project

59. In response to the violations of the CAA alleged in this Consent Agreement and Final Order and in settlement of this matter, although not required by the CAA or any other federal, state, or local law, Respondent shall complete the SEP described in Appendix A to this Consent Agreement and Final Order, which the parties agree is intended to secure significant environmental or public health protection and improvement.

60. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy (March 10, 2015).

61. The SEP advances at least one of the objectives of Section 112 of the CAA by reducing PM and other hazardous air pollutant emissions in areas impacted by excess emissions from Respondent's alleged CAA violations. The SEP is not inconsistent with any provision of Section 112 of the CAA. The SEP relates to the alleged violations and is designed to reduce the adverse impact to public health and the environment to which the alleged violations contribute, specifically by reducing emissions of PM and other hazardous air pollutants in areas impacted by excess emission from Respondent's alleged CAA violations.

62. Respondent must complete the SEP as follows. Within fifteen (15) months from the Effective Date of this Consent Agreement and Final Order, Respondent must procure two (2) propane school buses and provide these buses to Hannibal School District #60 (HSD), at a cost of at least two hundred eighty-two thousand dollars (\$282,000) to Respondent, and complete the school bus replacement project as set forth in Appendix A.

63. SEP Recipient

- a. Respondent has selected HSD to receive the propane school buses.
- b. The EPA had no role in the selection of SEP recipient or specific equipment identified in the SEP, nor shall this CAFO be construed to constitute EPA approval or endorsement of any SEP recipient or specific equipment identified in this CAFO.

64. Respondent certifies the truth and accuracy of each of the following:
- a. That all cost information Respondent provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates of the cost to implement the SEP as at least two hundred eighty-two thousand dollars (\$282,000).
 - b. That Respondent will not include administrative costs or employee oversight of the implementation of the SEP in its project costs.
 - c. That, as of the date of executing this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum.
 - d. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement and Final Order.
 - e. That Respondent has not received and will not receive credit for the SEP in any other enforcement action.
 - f. That Respondent or will not receive reimbursement for any portion of the SEP from another person or entity.
 - g. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
 - h. Respondent certifies under penalty of law that it would have agreed to perform a comparably valued, alternative project other than a diesel emission reduction SEP, if the Agency were precluded by law from accepting a diesel emission reduction SEP.
 - i. That Respondent has inquired of the SEP Recipient whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipient that it is not a party to such a transaction.

65. The EPA may request records at any time to monitor Respondent's compliance with this Consent Agreement and Final Order's SEP requirements.

66. Respondent must maintain copies of the underlying research and data for SEP reports submitted to the EPA pursuant to this Consent Agreement and Final Order, if applicable. Respondent must provide the documentation of any underlying research and data to the EPA within seven (7) days of the EPA's request for the information.

67. Respondent must submit a SEP Completion Report to the EPA within eighteen (18) months of the Effective Date of this Consent Agreement and Final Order. The Report must contain all the information set forth in Appendix A.

- a. SEP Completion Report Approval: The SEP Completion Report shall be reviewed in accordance with the procedures outlined in this paragraph. The EPA will review the SEP Completion Report and will notify the Respondent, in writing, regarding: i) any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or (ii) indicate that EPA concludes that the project has been completed satisfactorily; or (iii) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 69 herein.
- b. If the EPA elects to exercise option (i) above, i.e., if the SEP Completion Report is determined to be deficient, but the EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. The EPA and Respondent shall have an additional thirty (30) days from the receipt by the EPA of the notification of objection to reach an agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period, the EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

68. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this Consent Agreement and Final Order from the date of its execution shall include the following language:

This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of federal laws.

69. Stipulated Penalties

- a. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraph 62, Respondent agrees to pay, in addition to the civil penalty in Paragraph 52, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:
 - i. \$250 per day for days 1 – 30,
 - ii. \$300 per day for days 31 – 60,

- iii. \$350 per day for days 61 – 90.
- b. If Respondent fails to timely submit any SEP reports, such as the SEP Completion Report, in accordance with the timelines set forth in this Consent Agreement and Final Order, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:
 - i. \$100 per day for days 1 – 30,
 - ii. \$150 per day for days 31 – 60,
 - iii. \$200 per day for days 61 – 90.
- c. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 62 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$338,400. “Satisfactory completion” of the SEP is defined as Respondent spending no less than \$282,000 to procure two propane school buses for HSD within fifteen (15) months of the effective date of this Consent Agreement and Final Order, as set forth in Appendix A. The determination of whether the SEP has been satisfactorily completed shall be in the sole discretion of the EPA.
- c. The EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.
- d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by the EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraphs 53 and 54 above. Interest and late charges shall be paid as stated in Paragraph 55.

Effect of Settlement and Reservation of Rights

70. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent’s liability for federal civil penalties for the facts and violations alleged herein and arising from performance tests undertaken by Respondent at Respondent’s Facility between January 1, 2020, through December 31, 2023. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

71. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent’s representations to the EPA, as memorialized in the paragraph directly below.

72. Respondent certifies by the signing of this Consent Agreement that it, to the best of its knowledge, is presently in compliance with all requirements of the CAA and the regulations at 40 C.F.R. Part 63, Subpart EEE.

73. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

74. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

75. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and have the legal capacity to bind the party they represent to this Consent Agreement.

76. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

77. Respondent's signature on this Consent Agreement and Final Order is not intended to be, nor shall it be deemed, an admission of liability in any proceeding or litigation brought by any person or entity that is not a party to this Consent Agreement.

78. The penalty specified herein shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of Federal, State, or local taxes.

79. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

Appendix A:**Diesel School Bus Replacement SEP**

1. Within fifteen (15) months of the Effective Date of the Consent Agreement and Final Order, Respondent shall procure two (2) propane school buses to replace two (2) Hannibal School District #60 (HSD) buses from the following list at a cost of at least two hundred eighty-two thousand dollars (\$282,000) to Respondent:

Item	Vehicle Identification Number	Model Year	Make	Model	Bus Number
1	VIN 4DRBUAAP36B155973	2006	School bus	IC 71-passenger	Bus 6 (5973)
2	VIN 4DRBUAAP07B389778	2007	School bus	IC 76-passenger	Bus 14 (9778)

This list hereafter shall be called the “Vehicle List.”

2. In determining which vehicles to replace, HSD has assured Respondent it prioritized older, higher-polluting vehicles that have high annual usage rates and/or vehicle miles traveled so that the pollution reductions obtained from the SEP will be maximized.

3. Respondent, in consultation with HSD, may request to include vehicles not on the Vehicle List by providing to the EPA in writing a justification for the addition. Such vehicles shall be considered a part of the “Vehicle List” for purposes of this Appendix only if the EPA agrees in writing.

4. Within fifteen (15) months of the Effective Date of the Consent Agreement and Final Order, Respondent shall procure two (2) propane school buses to replace the school buses identified in the Vehicle List at a cost to Respondent of at least two hundred eighty-two thousand dollars (\$282,000). Failure to spend at least two hundred eighty-two thousand dollars (\$282,000) and replace the two (2) identified diesel buses will result in stipulated penalties pursuant to Paragraph 69 of the Consent Agreement and Final Order.

5. The replacement school buses shall be engine model year 2017 or newer powered by a propane engine certified to EPA emission standards or California Air Resources Board emissions standards.

6. Any diesel engine in a school bus that is replaced through this project shall be permanently destroyed. For purposes of this Appendix, “permanently destroyed” shall mean to destroy a vehicle or engine using one of the following methods:

- a. (i) Remove (and dispose of appropriately) the engine oil from the crankcase, replace the oil with a 40 percent solution of sodium silicate ($\text{SiO}_2/\text{Na}_2\text{O}$ with a weight ratio of 3.0 or greater); (ii) Run the engine at a low speed (approximately 2,000 rpm) until the engine stops; (iii) After allowing the engine to cool for an hour, try to start the engine; if the vehicle or engine contains a battery and that battery is charged and the engine will not operate at idle, the procedure is

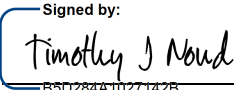
complete; (iv) If the engine starts, run the engine at a low speed (approximately 2,000 rpm) until the engine stops and then try to start the engine again after allowing the engine to cool for an hour. Repeat step (iv) in this process until the engine will not operate; (v) Remove and dispose of any remaining fuel in accordance with applicable law.

- b. Remove (and dispose of appropriately) all oil and fuel from the device. Using a drill bit of no less than 3/8 inch or a cutting torch: (i) drill or cut a hole through the lower crankcase of the engine so that it no longer retains oil; (ii) drill or cut a hole through the cylinder head into the combustion chamber; and (iii) drill or cut a hole through the cylinder or cylinder block through the cylinder liner.
 - c. Compact or crush the engine and all of its parts or components to render them useless.
7. SEP Completion Report
- a. Respondent must submit a SEP Completion Report to the EPA within eighteen (18) months of the Effective Date of this Consent Agreement and Final Order. This Report must contain the following information with supporting documentation:
 - i. A detailed description of the SEP as implemented;
 - ii. A description of any operating problems encountered and the solutions thereto;
 - iii. Itemized costs;
 - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order;
 - v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollution reductions, if feasible); and
 - vi. For any diesel engine permanently destroyed in accordance with Paragraph 6 of this Appendix:
 - 1. The method in Paragraph 6 of this Appendix used to permanently destroy the engine;
 - 2. Photographs demonstrating the engine was permanently destroyed using one of the methods in Paragraph 6 of this Appendix;
 - 3. The date on which the engine was permanently destroyed; and

4. The names and titles of any officers, employees, or agents of Respondent or HSD who permanently destroyed the engine.
- b. The SEP Completion Report shall be submitted on or before the due date specified above to Luke Rodriguez, Compliance Officer, via email at *rodriguez.luke@epa.gov*.
- c. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this subparagraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

RESPONDENT:

Continental Cement Company, LLC

Signed by:	
	12/20/2024
<small>B5D284A1027142B...</small>	
Signature	Date

Printed Name: Timothy J Noud

Title: Vice President of Manufacturing-Central Region

Address: 10107 MO-79, Hannibal, MO 63401

Respondent’s Federal Tax Identification Number: 43-1744040

IN THE MATTER OF Continental Cement Company, LLC
Docket No. CAA-07-2024-0077

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

DATE

David Cozad, Director
Enforcement and Compliance Assurance Division

DATE

Antonette Palumbo
Office of Regional Counsel

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

DATE

Meghan A. McCollister
Regional Administrator

CERTIFICATE OF SERVICE

(to be completed by EPA)

I certify that that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Antonette Palumbo, *palumbo.antonette@epa.gov*,

Luke Rodriguez, *rodriguez.luke@epa.gov*,

Lance Avey, *avey.lance@epa.gov*.

Copy via E-mail to Respondent:

Tim Noud, *tim.noud@continentalcement.com*;

Brittany Barrientos, *brittany.barrientos@stinson.com*.

Dated this _____ day of _____, _____.

Signed