

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

Magnesita Refractories Company
425 South Salem Church Road
York, Pennsylvania 17408

Respondent.

Administrative
Compliance Order

Docket No. CAA-03-2021-0106DA

ADMINISTRATIVE COMPLIANCE ORDER

I. PRELIMINARY STATEMENT

1. This Administrative Compliance Order (ACO) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 113(a)(3)(B) and (4) of the Clean Air Act (CAA), 42 United States Code (U.S.C.) § 7413(a)(3)(B) and (4).
2. The Director, Enforcement and Compliance Assurance Division, EPA - Region III, has been delegated the authority to issue this ACO under Section 113(a)(3)(B) and (4) of the CAA, 42 U.S.C. § 7413(a)(3)(B) and (4).
3. The Respondent is Magnesita Refractories Company, incorporated in the Commonwealth of Pennsylvania, and doing business in the Commonwealth of Pennsylvania at, among other locations, 425 South Salem Church Road and 320 North Baker Road, York, Pennsylvania 17408. The Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

II. STATUTORY AND REGULATORY BACKGROUND

1. Section 113(a)(3)(B) and (4) of the CAA, 42 U.S.C. § 7413(a)(3)(B) and (4), authorizes the Administrator of EPA to, among other things, issue an administrative compliance order whenever, on the basis of any information available to the Administrator, the Administrator finds that a person is in violation of a requirement of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code. Chapter 85 of Title 42 of the United States Code is the CAA, 42 U.S.C. §§ 7401-7671q. Subchapter I of Chapter 85 [also referred to as Title I of the CAA] includes Section 101 to Section 193 of the CAA, 42 U.S.C. §§ 7401-7515.
2. On July 24, 2020, the Administrator of EPA promulgated a rule, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, revising the national emission standards for hazardous air pollutants for lime manufacturing plants [85 Federal Register (FR) 44960]. The rule was also effective on

that date. The national emission standards for hazardous air pollutants for lime manufacturing plants are codified at 40 Code of Federal Regulations (CFR) Part 63, Subpart AAAAA (Sections 63.7080 - 63.7143). Among other things, the July 24, 2020 rule added Table 2 to 40 CFR Part 63, Subpart AAAAA. As noted in Section II, Paragraph 1 immediately above, Subchapter I of Chapter 85 of Title 42 of the United States Code includes Section 112 of the CAA, 42 U.S.C. § 7412.

3. Sections 1.i. and 3.i. of Table 2 of 40 CFR Part 63, Subpart AAAAA require that, in order to demonstrate compliance with the applicable emission limits for startup and shutdown, respectively, new and existing lime kilns and their associated coolers which are equipped with fabric filters (FFs) must have a continuous opacity monitoring system (COMS) installed, maintained, calibrated, and operated, as required by those sections of Table 2.

4. 40 CFR Part 63, Subpart AAAAA, Section 63.7083(e)(1) provides that if the affected source commenced construction or reconstruction on or before September 16, 2019, new and existing lime kilns and their associated coolers which are equipped with FFs were required to be in compliance with Table 2 by January 20, 2021. Under 40 CFR Part 63, Subpart AAAAA, Section 63.7081(a), the affected source is a lime manufacturing plant that is a major source of hazardous air pollutant emissions, or that is located at, or is part of, a major source of hazardous air pollutant emissions.

III. FINDINGS

1. At its premises at 425 South Salem Church Road and/or 320 North Baker Road, York, Pennsylvania 17408, EPA finds Respondent owns and operates a plant site that emits or has the potential to emit a single hazardous air pollutant (HAP) at a rate of 9.07 megagrams (10 tons) or more per year or a combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year from all emission sources at the plant site. Upon information and belief, EPA believes Respondent emits HAPs over 25 tons per year including, but not limited to, hydrogen chloride, antimony, arsenic, beryllium, cadmium, chromium, lead, manganese, mercury, nickel, and selenium. As a consequence, this plant site is a major source of HAP under 40 CFR Part 63, Subpart AAAAA, Section 63.7081(a)(2).

2. This plant site is an establishment engaged in the manufacture of lime product (calcium oxide, calcium oxide with magnesium oxide, or dead burned dolomite) by calcination of limestone, dolomite, shells or other calcareous substances. As a consequence, this plant site is a lime manufacturing plant under 40 CFR Part 63, Subpart AAAAA, Section 63.7081(a)(1).

3. As a lime manufacturing plant that is a major source of HAP emissions, this plant site is subject to 40 CFR Part 63, Subpart AAAAA under 40 CFR Part 63, Subpart AAAAA, Section 63.7081(a).

4. Two lime kilns and their associated coolers are located at this plant site. As a consequence, 40 CFR Part 63, Subpart AAAAA applies to these two lime kilns and their associated coolers under 40 CFR Part 63, Subpart AAAAA, Section 63.7082(a).

5. Construction or reconstruction of these two lime kilns and their associated coolers began on or before December 20, 2002. As a consequence, these two lime kilns and their associated coolers are existing under 40 CFR Part 63, Subpart AAAAA, Section 63.7082(e).
6. Each lime kiln and associated cooler is equipped with a FF.
7. On the basis of available information, as of the date of issuance of this ACO, neither of these two lime kilns and their associated coolers which are equipped with FFs have a continuous opacity monitoring system (COMS) installed, maintained, calibrated, and operated, as required by Sections 1.i. and 3.i. of Table 2 of 40 CFR Part 63, Subpart AAAAA in order to demonstrate compliance with the applicable emission limits for startup and shutdown.
8. On the basis of available information, EPA finds and concludes Respondent has violated, since January 20, 2021, and is violating, Sections 1.i. and 3.i. of Table 2 of 40 CFR Part 63, Subpart AAAAA, by not having a COMS installed, maintained, calibrated, and operated, as required in order to demonstrate compliance with the applicable emission limits for startup and shutdown, at each of its two lime kilns and their associated coolers which are equipped with FFs.

IV. ORDER

1. Respondent is hereby ordered to comply fully with Sections 1.i. and 3.i. of Table 2 of 40 CFR Part 63, Subpart AAAAA, at each of its two lime kilns and their associated coolers which are equipped with FFs, as expeditiously as practicable, but no later than one hundred and eighty (180) calendar days from the effective date of this ACO. Any request to modify the terms of, or parties to, this ACO shall be submitted, in writing, by Respondent to EPA and shall be subject to review and approval by EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of this ACO shall not relieve Respondent of any obligation under this ACO and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this ACO, in its sole and unreviewable discretion. Any proposal by Respondent for an extension of the compliance deadline in this paragraph must be made in writing to EPA within fourteen (14) calendar days from the effective date of this ACO. Any such proposal shall be submitted simultaneously by electronic mail to powers.isabella@epa.gov, baker.james@epa.gov, and R3_ORC_Mailbox@epa.gov. Under Section 113(a)(3)(B) and (4) of the CAA, 42 U.S.C. § 7413(a)(3)(B) and (4), this ACO must require compliance "as expeditiously as practicable, but in no event longer than one year after the date the order was issued."
2. Respondent is hereby further ordered to submit to EPA written status reports, with supporting documentation, on the first day of each full calendar month following the effective date of this ACO, until full compliance is achieved, and demonstrated to EPA's satisfaction. These written status reports shall be submitted simultaneously by electronic mail to powers.isabella@epa.gov, baker.james@epa.gov, and R3_ORC_Mailbox@epa.gov.

V. GENERAL PROVISIONS

1. Any violation of this ACO may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$25,000 (as inflated under 40 CFR Part 19) per day per violation, or both, as provided in Section 113(b)(2) and (d)(1)(B) of the CAA, 42 U.S.C. § 7413(b)(2) and (d)(1)(B), as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). EPA may use any written status reports, supporting documentation, or other information submitted under this ACO in a civil administrative, civil judicial, or criminal action.
2. Nothing in this ACO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA or other federal, state or local laws or regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it relieve Respondent of liability for civil or criminal sanctions, including civil penalties or criminal fines, for any violations of the CAA, including, but not limited to, the violations addressed by this ACO.
3. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any other person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
4. The provisions of this ACO shall apply to and be binding upon Respondent and its directors, officers, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the effective date of this ACO until Respondent demonstrates full compliance to EPA's satisfaction, Respondent must give written notice of this ACO (and a copy thereof) to any potential successor(s) in interest prior to any transfer of any interest (including any ownership or operational interest) in all, or any portion of, the affected source under 40 CFR Part 63, Subpart AAAAA in York, Pennsylvania. Simultaneously with such written notice, Respondent shall provide written notice to EPA of the potential transfer of interest. Such written notice to EPA shall be submitted simultaneously by electronic mail to powers.isabella@epa.gov, baker.james@epa.gov, and R3_ORC_Mailbox@epa.gov. In the event of any such transfer of interest, Respondent shall not be released from any obligations or liabilities of this ACO unless EPA has provided specific written approval of the release of any such obligations or liabilities.
5. Under Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this ACO is not renewable.
6. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 CFR Part 1, Section 1.162-21(b)(2), the actions required by Section IV, Paragraph 1, above, and payments made to take such actions, are required to come into compliance with law, namely Sections 1.i. and 3.i. of Table 2 of 40 CFR Part 63, Subpart AAAAA.

VI. TERMINATION

This ACO shall terminate on the earlier of the following:

-365 calendar days after the effective date of this ACO; or

-the effective date of any written termination notice transmitted by electronic mail by EPA to Respondent.

VII. EFFECTIVE DATE

This ACO relates to violations of Section 112 of the CAA, 42 U.S.C. § 7412. Consequently, under Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this ACO is effective immediately upon Respondent’s receipt of this ACO by electronic mail.

VIII. JUDICIAL REVIEW

Respondent may seek federal judicial review of the Order pursuant to Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

Date

Karen Melvin
Director
Enforcement and Compliance Assurance Division
EPA - Region III