

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) Docket No. **CAA-5-001**
)
Lafarge Corporation) Proceeding to Assess an
Paulding, Ohio,) Administrative Penalty
) under Section 113(d) of the
) Clean Air Act,
Respondent.) 42 U.S.C. § 7413(d)
)

Consent Agreement and Final Order

WHEREAS, Complainant, the Acting Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (Complainant or EPA), files this Consent Agreement and Final Order (CAFO) resolving the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 64 Fed. Reg. 40138 (July 23, 1999) (to be codified at 40 C.F.R. Part 22), against Lafarge Corporation (Lafarge);

WHEREAS, EPA and Lafarge, the Parties herein, having agreed that resolution of this matter through entry of this CAFO is an appropriate means of resolving this matter;

WHEREAS, EPA and Lafarge resolved this matter prior to the filing of a Complaint against Lafarge, and, therefore, in accordance with 40 C.F.R. § 22.13(b), this CAFO simultaneously commences and concludes this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby AGREED and ORDERED as follows:

I. PRELIMINARY STATEMENT

1. This CAFO is issued pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 64 Fed. Reg. 40138 (July 23, 1999) (to be codified at 40 C.F.R. Part 22).

2. On June 28, 1999, EPA issued a Notice of Violation (NOV) to Lafarge for alleged violations of Ohio's State Implementation Plan (SIP), Ohio Administrative Code (OAC) Rule 3745-17-07, arising from exceedances of the opacity limit from Lafarge's clinker cooler stacks on three separate days at Lafarge's cement manufacturing facility located at 11435 County Road 176, Paulding, Ohio (the Facility). A Section 113 conference between EPA and Lafarge was held on September 9, 1999,

during which EPA and Lafarge discussed the alleged violations cited in the NOV.

3. Upon receipt of the NOV, Lafarge cooperated with the EPA to resolve the matters covered by this CAFO and Lafarge has shown good faith and cooperation in settling this matter.

4. Lafarge admits to the jurisdictional allegations and neither admits nor denies the factual allegations regarding the allegations in the NOV.

5. Lafarge waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the NOV or to challenge the terms and conditions of this CAFO.

6. Lafarge consents to the terms of this CAFO and to the assessment of the civil penalty provided in the Order below.

7. Lafarge certifies that the alleged violations have been properly remedied and that Lafarge is complying fully with Rule 3745-17-07 of the Ohio SIP at its clinker coolers and is in compliance with its permits at the Facility.

II. TERMS OF SETTLEMENT

8. In accordance with Section 113(d) and (e) of the Act, 42 U.S.C. § 7413(d) and (e), and after consideration of the nature of the alleged violations addressed, Lafarge's good faith and cooperation with EPA, and other relevant factors, EPA has determined that an appropriate civil penalty is in the amount of FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00).

9. Within 30 days after the effective date of this CAFO Lafarge shall pay the \$48,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," in the amount of FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00) to:

U.S. Environmental Protection Agency,
Region 5
P.O. Box 70753
Chicago, Illinois 60673

10. A transmittal letter, stating Lafarge's name, complete address, the case docket number and the billing document number must accompany the payment. Lafarge shall write the case docket number and the billing document number on the face of the check. Respondent shall send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Cynthia A. King, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

11. This civil penalty is not deductible for federal tax purposes.

12. If Lafarge does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

13. Interest shall accrue on any amount overdue from the date the payment was due at a rate established pursuant to 26 U.S.C. § 6621(a)(2). Lafarge shall pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Lafarge shall pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty shall be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

14. This CAFO settles EPA's claims for civil penalties for the violations alleged in the NOV.

15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the Act for the violations alleged in the NOV. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Lafarge. Compliance with this CAFO shall not be a

defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Lafarge to comply with such laws and regulations.

16. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Lafarge's "full compliance history" pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e).

17. The terms of this CAFO bind Lafarge, its officers, directors, agents, successors, authorized representatives, and assigns.

18. Each person signing this Consent Agreement certifies that he or she has the authority to sign this Consent Agreement for the party whom he or she represents and to bind that party to its terms.

19. Each party shall bear its own costs and fees in this action.

20. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection
Agency, Complainant**

Date: November 17, 1999

By:


Margaret M. Guerriero,

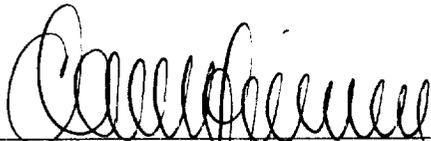
CAA-5-00-001

Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Lafarge Corporation, Respondent

CAA-5-70-001

Date: 11/2/99

By: 

Claude Mongeau, Plant Manager
Lafarge Corporation

CAA-5-70-00

CONSENT AGREEMENT AND FINAL ORDER

Lafarge Corporation

Docket No. **CAA-5-10-001**

Final Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This Order disposes of the matter pursuant to 40 C.F.R. § 22.18(c).

Date: 11/18/99



Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF MAILING

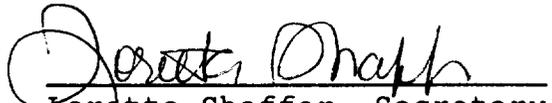
I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-70-001 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first class, postage prepaid, certified mail, return receipt requested, to Lafarge Corporation by placing them in the custody of the United States Postal Service addressed as follows:

Craig Campbell, Regional Environmental Manager
Lafarge Corporation
Country Road 176
Paulding, Ohio 45879

I also certify that I sent a copy of the Request to Provide Information Pursuant to the Clean Air Act by First Class Mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216

on the 18th day of November 1999.


Loretta Shaffer, Secretary
ACEAS MN-OH

CERTIFIED MAIL RECEIPT NUMBER: Z 199 036 538