



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

APR 07 2004

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Debbie L. Tolliver
Lehigh Cement Company
121 North First Street
Mitchell, Indiana 47446

Re: Notice of Violation/
Finding of Violation
Lehigh Cement Company
Mitchell, Indiana

Dear Ms. Tolliver:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice of Violation (NOV) and Finding of Violation (FOV) to Lehigh Cement Company (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are violating Subtitle I, Part C of the Act, Condition D.4.1(e) of your Title V operating permit, and the Indiana State Implementation Plan (SIP) at your Mitchell, Indiana facility.

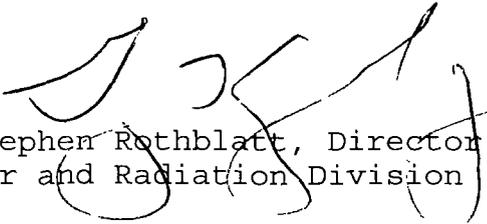
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the NOV/FOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The U.S. EPA contact in this matter is Daniel Schaufelberger. You may call him at (312) 886-6814 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,

 A handwritten signature in black ink, appearing to be 'S. Rothblatt', written over the typed name. To the right of the signature, the word 'ALTMG' is handwritten in capital letters.

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Lehigh Cement Company) NOTICE OF VIOLATION AND
Mitchell, Indiana) FINDING OF VIOLATION
)
) EPA-5-04-15
Proceedings Pursuant to)
Section 113(a)(1) of the)
Clean Air Act, 42 U.S.C.)
§ 7413(a)(1))

NOTICE AND FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) is issuing this Notice and Finding of Violation under Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1). U.S. EPA finds that Lehigh Cement Company (Lehigh) is violating Subtitle I, Part C of the Act, Sections 502 and 503 of the Act, 42 U.S.C. § 7661a-b, Title V of the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7661 et seq., the Indiana State Implementation Plan (SIP), and its Title V operating permit as follows:

Statutory and Regulatory Background

Prevention of Significant Deterioration

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration (PSD) of air quality standards pursuant to Subtitle I, Part C of the Act. These regulations were revised on August 1, 1980 (45 Fed. Reg. 52676), and are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403).
2. Subchapter I, Part C of the Act, and the PSD regulations implementing Part C at 40 C.F.R. § 52.21, prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is major in that it will result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has either achieved the National Ambient Air Quality Standards (NAAQS) for that pollutant, or has been designated as unclassifiable for that pollutant. Part C and its implementing regulations further require that a source subject to these PSD regulations shall install Best Available Control Technology (BACT) to control the emissions

of each regulated pollutant. 40 C.F.R. § 52.21(j).

3. On April 7, 1980, U.S. EPA delegated to the Indiana Department of Environmental Management (IDEM) authority to review and process PSD permit applications and to implement the PSD program. 46 Fed. Reg. 9584.
4. On August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP. 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, as amended at 46 Fed. Reg. 9584).
5. On March 3, 2003, U.S. EPA conditionally approved Indiana's PSD SIP, 326 Ind. Admin. Code Rule 2-2, (68 Fed. Reg. 9892).
6. 326 Ind. Admin. Code § 2-2-1(y) defines a "major stationary source" as any stationary source, including Portland cement plants, which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to the regulation under the Act.
7. 326 Ind. Admin. Code § 2-2-1(x) defines a "major modification" as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emission increase of any pollutant subject to regulations under the Act.
8. 326 Ind. Admin. Code § 2-2-1(cc) defines "net emissions increase" as "the amount by which the sum of the following exceeds zero:
 - (a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and
 - (b) Any other increase and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable."
9. 326 Ind. Admin. Code § 2-2-1(jj) defines a "significant" net emissions increase for carbon monoxide (CO) as a rate of emissions which would equal or exceed 100 tons per year (tpy).

Title V Operating Permit¹

10. All terms and conditions in a Title V permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Act. 40 C.F.R. § 70.6(b).
11. The permittee must comply with all conditions of its Title V permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application. 40 C.F.R. § 70.6(a)(6)(i).
12. IDEM issued to Lehigh a Title V operating permit, which became effective on December 30, 2002.
13. IDEM issued, on April 23, 2003, an interim significant source modification permit for the conversion of Kiln #1 and Kiln #2 from long dry kilns to one-stage preheater kilns.
14. IDEM issued, on July 11, 2003, a Title V significant source modification for the conversion of Kiln #1 and Kiln #2 from long dry kilns to one-stage preheater kilns.
15. Condition D.4.1.(e) of Lehigh's Title V operating permit states that "CO emissions from each Kiln #1 (EU15) and Kiln #2 (EU16) shall not exceed 1.67 lb/ton clinker."

Lehigh's Facility

16. Lehigh owns and operates a Portland cement plant at 121 North First Street, Mitchell, Indiana.
17. Lehigh is located in Lawrence County, Indiana, an area designated as unclassifiable/attainment for the National Ambient Air Quality Standards (NAAQS) for CO. 40 C.F.R. § 81.315.
18. Lehigh's Kiln #1 and Kiln #2 were originally constructed in 1959 as long dry kilns. The Lehigh facility emits, or has

¹ Although the Clean Air Act does not require U.S. EPA to issue a FOV for purposes of alleging violations of Title V requirements, U.S. EPA wants to ensure that the source is comprehensively notified of all significant Clean Air Act violations known to U.S. EPA at this time.

the potential to emit, 100 tons per year or more of a pollutant regulated under the Act, and is a "major stationary source" as defined at 326 Ind. Admin. Code § 2-2-1(y).

19. Lehigh conducted stack tests for criteria pollutants on October 25 and 26, 2001, at its Kiln #1/Kiln #2 stack. A mass emission rate of CO was computed for three separate test runs on these two long dry kilns. The average CO emission rate was determined to be 107 lbs/hr.
20. In mid-2003, Lehigh commenced construction on Kiln #1 and Kiln #2 to convert the long dry kilns to one-stage preheater kilns. The project was both a physical change and a change in the method of operation of the kilns.
21. Lehigh conducted a stack test for criteria pollutants at Kiln #2 on December 12, 2003, and at Kiln #1 on December 16, 2003. Average CO emission rates were found to be 2.84 lb CO/ton clinker (89.6 lbs/hr) for Kiln #1 and 2.92 lb CO/ton clinker (90.1 lbs/hr) for Kiln #2.
22. Emissions from Lehigh's modified Kiln #1 and Kiln #2 are subject to federally enforceable emissions limitations as established in its Title V operating permit under condition D.4.1. These emissions limitations were established as a means to avoid PSD review under 326 Ind. Admin. Code Rule 2-2.

Violations

23. In 2003, Lehigh Cement commenced a major modification of cement Kiln #1 and Kiln #2 without obtaining a PSD permit and complying with the requirements in 326 Ind. Admin. Code Rule 2-2, in violation of Subtitle I, Part C of the Act and 326 Ind. Admin. Code Rule 2-2.
24. In 2003, Lehigh Cement has failed to achieve the 1.67 pounds of CO per ton of clinker emissions limitation in violations of Condition D.4.1.(e) of its Title V operating permit.
25. Lehigh has operated and continues to operate its facility without obtaining a PSD permit for the 2003 major modification in violation of Subtitle I, Part C of the Act and 326 Ind. Admin. Code Rule 2-2 of the Indiana SIP.

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice and Finding of Violation, No. EPA-5-04-15-IN, by Certified Mail, Return Receipt Requested, to:

Debbie L. Tolliver
Environmental Coordinator
121 North First Street
Mitchell, Indiana, 47446-0097

I also certify that I sent a copy of the Notice and Finding of Violation by first class mail to:

David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 8th day of April, 2004.


Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000601784261