

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Illinois Cement Company) **NOTICE AND FINDING OF**
LaSalle, Illinois) **VIOLATION**
)
Proceedings Pursuant to) **EPA-5-03-09-IL**
Section 113(a)(1) and (a)(3))
of the Clean Air Act,)
42 U.S.C. § 7413(a)(1) and)
(a)(3))

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation and Finding of Violation under Section 113(a)(1) and (3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1) and (3). U.S. EPA finds that Illinois Cement Company, located in LaSalle, Illinois, is in violation of Subtitle I, Part C of the Act, its implementing regulations at 40 C.F.R. § 52.21, the Illinois State Implementation Plan (SIP), and sections 502 and 503 of the Act. 42 U.S.C. § 7661a-b.

Statutory and Regulatory Background

Prevention of Significant Deterioration

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration of air quality standards pursuant to Subtitle I, Part C of the Act. These regulations are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403).
2. On April 7, 1980, U.S. EPA delegated to the Illinois Environmental Protection Agency (IEPA) authority to review and process PSD permit applications and to implement the PSD program. 46 Fed. Reg. 9584.
3. On August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Illinois SIP. 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, as amended at 46 Fed. Reg. 9584).
4. 40 C.F.R. § 52.21(b)(1)(i)(a) defines a "major stationary source" as any 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.

5. 40 C.F.R. § 52.21(b)(2)(i) 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 regulation under the Act.
6. 40 C.F.R. § 52.21(b)(23)(i) defines "significant" net emissions increase for sulfur dioxide (SO₂) as a rate of emissions which would equal or exceed 40 tons per year of SO₂.
7. An applicant for a permit to modify a stationary source is required to provide all relevant information to allow the permitting authority to perform an analysis or make the determination required in order to issue the appropriate permit. 40 C.F.R. § 52.21(n).
8. 40 C.F.R. § 52.21(i)(1) prohibits the actual construction or major modification of a major stationary source without a permit which states that the major stationary source or modification would meet the requirements of 40 C.F.R. § 52.21 (j) through (r).
9. 40 C.F.R. § 52.21(j) provides that for each pollutant subject to regulation under the Act for which a physical change or a change in the method of operation would result in a significant net emissions increase at the source, the owner or operator of the source shall apply Best Available Control Technology (BACT) to each emissions unit at which the major modification occurs.
10. 40 C.F.R. § 52.21(r) states that any owner or operator of a source subject to PSD regulations who operates a source or modification without applying for and receiving approval under the PSD regulations is subject to enforcement action.

Requirements for SIP Construction Permits

11. On May 31, 1972, U.S. EPA approved Illinois Pollution Control Board (PCB) Rules 103(a)(1) as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10842. Due to renumbering of the Illinois PCB Rules, Rules 103(a)(1), as approved by U.S. EPA, is currently set forth at 35 I.A.C. § 201.142.

12. Section 201.142 prohibits the construction of a new emission source or modification of an existing emission source without first obtaining a construction permit.

Requirements for SIP Operating Permits

13. On May 31, 1972, U.S. EPA approved Illinois Pollution Control Board (PCB) Rules 103(b)(1) and 103(b)(2) as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10842. Due to renumbering of the Illinois PCB Rules, Rules 103(b)(1) and 103(b)(2), as approved by U.S. EPA, are currently set forth at 35 I.A.C. §§ 201.143 and 201.144, respectively.
14. Section 201.143 prohibits the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the State of Illinois.
15. The Illinois SIP requirements identified in paragraphs 13-14 are federally enforceable under Sections 110 and 113 of the CAA, 42 U.S.C. §§ 7410 and 7413.

Requirements for Title V Operating Permits¹

16. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.
17. Section 503(d) of the CAA, 42 U.S.C. § 7661b(d), sets forth the requirement to timely submit an application for a permit, including required information.
18. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.

¹ Although the Clean Air Act does not require U.S. EPA to issue an NOV 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.

19. 40 C.F.R. § 70.7(b) provides that no source subject to Part 70 requirements may operate without a permit as specified in the CAA.
20. U.S. EPA promulgated final interim approval of the Illinois Title V program on March 7, 1995 (60 Fed. Reg. 12478), and the program became effective on that date.

Factual Findings

21. Illinois Cement Company owns and operates a portland cement plant located at 1601 Rockwell Road, LaSalle, Illinois. As part of the portland cement plant, Illinois Cement Company owns and operates a cement kiln. The factual background and findings in this NOV/FOV relate to Illinois Cement Company's cement kiln and portland cement plant.
22. Illinois Cement Company is located in LaSalle County, Illinois, an area designated as attainment for the National Ambient Air Quality Standards (NAAQS) for SO₂. 40 C.F.R. § 81.314.
23. The cement kiln at the Illinois Cement Company portland cement plant was constructed in 1975. The LaSalle cement kiln and portland cement plant emit or have the potential to emit 100 tons per year or more of a pollutant regulated under the Act, and are "major stationary sources" as defined at 40 C.F.R. § 52.21(b)(1)(i)(a).
24. In 1992, Illinois Cement Company commenced the usage of petroleum coke in its cement kiln as a fuel. This usage of petroleum coke continues to date. This constitutes a physical change in or change in the method of operation of the cement kiln at the Illinois Cement Company's portland cement plant.
25. The 1992 physical change or change in the method of operation to the usage of petroleum coke as a fuel in the Illinois Cement Company's cement kiln resulted in a significant net SO₂ emissions increase of 40 tons per year or more.
26. The modification of Illinois Cement Company's cement kiln was a "major modification" to the existing portland cement plant as defined at 40 C.F.R. § 52.21(b)(2).
27. Illinois Cement Company's portland cement plant is subject

to Title V of the Act (section 502 and 503), because it is a major source (as defined in Section 501(3) of the Act) with the potential to emit more than 100 tons per year of a pollutant regulated under the Act.

Violations

28. In 1992, Illinois Cement Company commenced a major modification of its cement kiln without obtaining a PSD permit and complying with the requirements in 40 C.F.R. § 52.21(j) through (r) in accordance with the Act, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
29. Illinois Cement Company failed to employ BACT for SO₂ emissions at the cement kiln in 1992, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
30. Illinois Cement Company failed to provide the permitting authorities with all relevant information necessary for the permitting authorities to perform an analysis of whether Illinois Cement's proposed changes were a "major modification", or make the determination required in order to issue the appropriate permit, resulting in an erroneous determination in violation of the CAA, and its implementing regulations at 40 C.F.R. § 52.21(n), as incorporated into the Illinois SIP.
31. In 1992, Illinois Cement Company modified its portland cement plant without first obtaining a construction permit in violation of 35 I.A.C. § 201.142.
32. Illinois Cement Company has operated and continues to operate its facility without obtaining a PSD permit for the 1992 major modification in violation of Subtitle I, Part C of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Illinois SIP.
33. Illinois Cement Company has operated and continues to operate its facility without an operating permit in violation of the Illinois SIP. 35 I.A.C. § 201.143.
34. The violations, in paragraphs 28 through 33, exist from at least the date of start of the 1992 major modification and

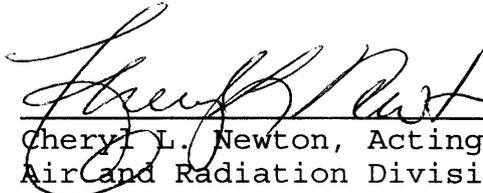
continue until the appropriate permits are obtained and the applicable requirements are complied with, including the installment and operation of pollution control equipment.

35. Illinois Cement Company failed to submit a timely and complete Title V permit application with information pertaining to the 1992 major modification, violating Section 503 of the CAA and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating Section 502 of the CAA.
36. The violations in paragraph 35 continue until Illinois Cement Company submits a complete Title V permit application.

FINDING OF VIOLATION

The Administrator of the U.S. EPA, by authority duly delegated to the undersigned, notifies the State of Illinois that Illinois Cement Company is in violation of Subtitle I, Part C of the Act, its implementing regulations at 40 C.F.R. § 52.21, Sections 502 and 503 of the Act, 42 U.S.C. § 7661a-b and the Illinois SIP, as set forth in this Notice of Violation and Finding of Violation.

2/26/83
Date


Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation to Illinois Cement Company, to:

Eugene Hodges
Regulatory Manager
Illinois Cement Company
1601 Rockwell Road
LaSalle, Illinois 61301-0442

I also certify that I sent a copy of the Notice and Finding of Violation by First Class Mail to:

Julie Armitage, Section Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

on the 26th day of February 2003.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0178 3295