



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

SEP 2 2006

REPLY TO THE ATTENTION OF:
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Scott Quaas
Environmental Manager
Lehigh Cement Company
180 North Meridian Road
Mitchell, Indiana 47446

Dear Mr. Quaas:

This is to advise you that the U.S. Environmental Protection Agency (EPA) has determined that the Lehigh Cement Company, LLC., facility at 180 North Meridian Road, Mitchell, Indiana (Lehigh) is in violation of the Clean Air Act (CAA) and associated state or local pollution control requirements. A discussion of the requirements violated is provided below. A Notice of Violation and Finding of Violation (NOV/FOV) for these violations is being issued and is enclosed for your review.

The CAA requires the development of Primary and Secondary National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. To attain and maintain these standards, each State is required to develop an implementation plan. Indiana's State Implementation Plan (Indiana SIP) includes the following requirements:

- 1) No person shall commence construction or modification of any air pollution source without first applying for and obtaining a construction permit from the commissioner of the Indiana Department of Environmental Management.
- 2) An owner or operator may not begin construction of a major modification at a major stationary source in an area that meets the NAAQS without first obtaining a construction permit that contains an emission limit that represents the best available control technology.
- 3) An owner or operator may not begin operation of a major modification at a major stationary source in an area that meets the NAAQS without installing the best available control technology for reducing the emissions of the pollutant for which the modification is major.

EPA finds that Lehigh has violated the above-listed Indiana SIP requirements.

Since Lehigh's facility is subject to applicable requirements under the Indiana SIP that are not listed in its Title V permit, it has also violated Title V of the CAA and its associated regulations which require all CAA requirements applicable to a source to be incorporated into that source's Title V permit.

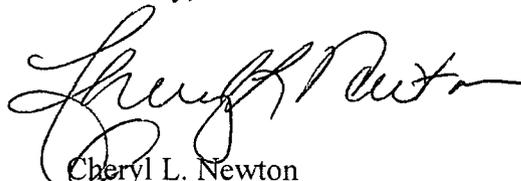
In addition to the Indiana SIP violations, Lehigh's facility has also exceeded the visible emission limits established for cement kilns in the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry, located at 40 C.F.R. § 63.1343.

Section 113 of the CAA gives EPA several enforcement options to resolve these violations, including: issuing an administrative compliance order; issuing an administrative penalty order; bringing a judicial civil action; and bringing a judicial criminal action.

Section 113 of the CAA provides you with the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you with an opportunity to present information on the identified violations, 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 take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contact in this matter is Shannon Downey. You may call her at (312) 353-2151, if you wish to request a conference. EPA hopes that this NOV/FOV will encourage Lehigh's compliance with the requirements of the Clean Air Act.

Sincerely,



Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Lehigh Cement Company, LLC.)	NOTICE OF VIOLATION and
Mitchell, Indiana)	FINDING OF VIOLATION
)	
)	EPA-05-09-IN
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 et seq.)	

NOTICE AND FINDING OF VIOLATION

Lehigh Cement Company, LLC., (Lehigh or you) owns and operates a Portland cement facility at 180 North Meridian Road, Mitchell, Indiana. The facility consists of a number of pieces of equipment that generate air pollution and are subject to provisions of the Clean Air Act (the Act or CAA). This facility currently operates three one-stage preheater kilns, clinker cooler facilities, and cement kiln dust storage, disposal, mining, and handling facilities/emissions units.

The U.S. Environmental Protection Agency (EPA) is sending this Notice of Violation and Finding of Violation (NOV/FOV or Notice) to notify you of several items regarding the Mitchell, Indiana facility. We find that you constructed a major modification causing a significant increase in nitrogen oxides (NO_x), sulfur dioxide (SO₂), particulate matter less than 10 microns (PM₁₀), and sulfuric acid mist (H₂SO₄) emissions at a major stationary source in an area that was designated as attainment for ozone, SO₂, PM₁₀, nitrogen dioxide (NO₂), and sulfuric acid mist (H₂SO₄) at the time of the modification, without first obtaining a construction permit meeting the Prevention of Significant Deterioration (PSD) requirements in the Indiana State Implementation Plan (SIP). We find that you have also failed to comply with Title V requirements by not incorporating all applicable regulations into your Title V operating permit. In addition, Lehigh's facility has also exceeded the visible emission limits established for cement kilns in the National Emission Standards for Hazardous Air Pollutants (NESHAP) from the Portland Cement Manufacturing Industry, located at 40 C.F.R. § 63.1343. All of these violations constitute violations of the Clean Air Act.

Section 113 of the Act provides you with the opportunity to request a conference with us to discuss the violations alleged in the NOV/FOV. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for the facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

Regulatory Background

1. The following provisions of the Indiana SIP (effective September 19, 1997) are relevant to this NOV/FOV:

Construction Permit

- a. Indiana SIP Rule 326 Indiana Administrative Code (IAC) 2-1-3(a) prohibits any person from commencing construction or modification of any air pollution source without first applying for and obtaining a construction permit from the commissioner of the Indiana Department of Environmental Management (IDEM).
 - b. Indiana SIP Rule 326 IAC 2-1-3(c) requires any person proposing the construction or modification of a major stationary PSD source or major PSD modification, which is or which will be located in an attainment area or unclassified area, to comply with the requirements of Indiana SIP Rule 326 IAC 2-2.
2. The following provisions of the Indiana SIP effective as of June 27, 2003 are relevant to the 2003 violations cited in this NOV/FOV. The Indiana SIP provisions effective from July 19, 2004 until July 18, 2007 are relevant to the 2005 violations cited in this NOV/FOV. Unless otherwise noted, most of the 2003 Indiana SIP provisions did not change in the SIP which was effective as of July 19, 2004.

Attainment PSD

- a. Indiana SIP Rule 326 IAC 2-2-2 states that new or modified major stationary sources or major modifications, constructed in an area designated as in attainment, are subject to 326 IAC 2-2, which contain the PSD provisions of the Indiana SIP.
- b. Indiana SIP Rule 326 IAC 2-2-1(y) defines “major stationary source” in an attainment area as a Portland cement plant that emits, or has the potential to emit, 100 tons per year or more of any regulated New Source Review (NSR) pollutant. (In the 2004 Indiana SIP, the citation for “major stationary source” is set forth at 326 IAC 2-2-1(z); the substantive provisions of the definition did not change.)
- c. Indiana SIP Rule 326 IAC 2-2-1(x) defines “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 emissions increase. (The 2004 Indiana SIP made changes to the definition of “major modification” that are not relevant here.)

- d. Indiana SIP Rule 326 IAC 2-2-1(cc) defines “net emissions increase” as the amount by which the sum of the increase in emissions from a physical change or change in the method of operation and any other contemporaneous increases or decreases in emissions exceeds zero. (The 2004 SIP made only minor grammatical changes to this definition).
 - e. In reference to SO₂, Indiana SIP Rule 326 IAC 2-2-1(jj)(1)(C) defines “significant” with regard to a net emissions increase as a rate of emissions that would equal or exceed 40 tons per year.
 - f. In reference to PM₁₀, Indiana SIP Rule 326 IAC 2-2-1(jj)(1)(E) defines “significant” with regard to a net emissions increase as a rate of emissions that would equal or exceed 15 tons per year.
 - g. In reference to NO_x, Indiana SIP Rule 326 IAC 2-2-1(jj)(1)(B) defines “significant” with regard to a net emissions increase as a rate of emissions that would equal or exceed 40 tons per year.
 - h. In reference to sulfuric acid mist, Indiana SIP Rule 326 IAC 2-2-1(jj)(1)(M) defines “significant” with regard to a net emissions increase as a rate of emissions that would equal or exceed 7 tons per year.
 - i. Indiana SIP Rule 326 IAC 2-2-3(3) requires that owners or operators making a major modification apply best available control technology (BACT) for each regulated pollutant for which the modification would result in a significant net emissions increase.
 - j. Indiana SIP Rule 326 IAC 2-2-1(h) defines BACT as an emissions limitation based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major modification. (The 2004 SIP made minor grammatical changes to the definition of BACT.)
 - k. Indiana SIP Rule 326 IAC 2-2-5 requires that owners or operators of a proposed major modification demonstrate that allowable emission increases, in conjunction with all other applicable emission increases or reductions, will not cause or contribute to air pollution in violation of any ambient air quality standard or applicable maximum allowable increase over the baseline concentration in any area.
3. The following Portland Cement Manufacturing NESHAP provisions are relevant to this NOV/FOV:
 - a. 40 C.F.R. § 63.1343(b)(2) requires owners or operators of Portland cement kilns to comply with a limit of less than 20 % opacity.

4. The following Title V provisions and underlying requirements located at 40 C.F.R. Part 70 are relevant to this NOV/FOV:
 - a. Title V of the CAA establishes an operating permit program for major sources. The purpose of Title V is to ensure that all “applicable requirements” for compliance with the CAA, including SIP and NESHAP requirements, are collected in one place.
 - b. Title V requires that each permit issued under this program include enforceable emission limitations and such other conditions as are necessary to assure compliance with “applicable requirements” of the CAA, including the requirements of the applicable SIP.
 - c. Under Title V, any owner or operator of a source subject to the Title V program is required to submit a timely and complete permit application that contains information sufficient to determine the applicability of any CAA requirements, certifies compliance with all applicable requirements, and contains a compliance plan for all applicable requirements for which the source is not in compliance.
 - d. Under Title V, any applicant who fails to submit any relevant fact or who has submitted incorrect information in a permit application is required to promptly submit such supplementary facts or corrected information upon becoming aware of such failure or incorrect submittal.
 - e. Title V program requirements are codified at Section 503 of the CAA, 42 U.S.C. § 7661b with implementing regulations at 40 C.F.R. Part 70.

Explanation of Violations

2003

1. Lehigh is a major stationary source according to 40 C.F.R. § 52.21(b)(1)(i)(a) that has the potential to emit a number of regulated PSD pollutants in excess of 100 tons per year.
2. In July 2003, Lehigh completed construction of a project on Kiln Numbers 1 and 2, converting them from long-dry to one-stage pre-heater kilns.
3. The July 2003 Project on Kilns 1 and 2 constitutes a modification to an air pollution source.
4. The July 2003 project allowed Lehigh to increase the clinker production in a manner that would increase emissions of PM₁₀ and sulfuric acid mist by significant amounts, thus making the project a major modification.

5. Lehigh is located in Lawrence County, Indiana. In July 2003, Lawrence County, Indiana was listed as attainment or unclassifiable for PM₁₀ and sulfuric acid mist.
6. With regard to PM₁₀ and sulfuric acid mist, Lehigh's failure to obtain a construction permit for this major modification meeting the PSD requirements in Indiana SIP Rule 326 IAC 2-2 is a violation of Indiana SIP Rule 326 IAC 2-1-3(a).
7. Lehigh's failure to apply BACT to control emissions of PM₁₀ and sulfuric acid mist is a continuing violation of Indiana SIP Rule 326 IAC 2-2-3(3).
8. Lehigh failed to obtain any permits, conduct any modeling, or undergo any other sort of pre-construction review for these modifications.
9. Lehigh's failure to demonstrate that allowable emissions increases from this major modification will not cause or contribute to air pollution in violation of any ambient air quality standard or applicable maximum allowable increase over the baseline concentration in any area is a violation of Indiana SIP Rule 326 IAC 2-2-5.

2005

10. Lehigh is a major stationary source according to 40 C.F.R. § 52.21(b)(1)(i)(a) that has the potential to emit several regulated PSD pollutants in excess of 100 tons per year.
11. In March 2005, Lehigh completed a project that involved installing a static clinker distribution system in the existing clinker cooler inlet area.
12. The March 2005 project constructed on the Clinker Cooler for Kiln 1 constitutes a modification to an air pollution source.
13. In July 2005, Lehigh completed construction of a project on Kilns 1 and 2 that split the common kiln feed and clinker cooler dust (CKD) system.
14. The July 2005 project constructed on Kilns 1 and 2 constitutes a modification to an air pollution source.
15. Lehigh failed to obtain any permits, conduct any modeling, or undergo any other sort of pre-construction review for these modifications.
16. Lehigh failed to obtain a construction permit for these modifications, in violation of Indiana SIP Rule 326 IAC 2-1-3(a).
17. The March 2005 and July 2005 projects allowed Lehigh to increase clinker production in a manner that would increase emissions of NO_x and SO₂ by significant amounts, thus making the project a major modification.

18. Lehigh is located in Lawrence County, Indiana. In March and July 2005, Lawrence County, Indiana was listed as attainment or unclassifiable for NO₂ and SO₂.
19. With regard to SO₂ and NO_x, Lehigh's failure to obtain a permit for these major modifications meeting the PSD requirements in Indiana SIP Rule 326 IAC 2-2 is a violation of Indiana SIP Rule 326 IAC 2-1-3(c).
20. Lehigh's failure to apply BACT to control emissions of SO₂ and NO_x is a continuing violation of Indiana SIP Rule 326 IAC 2-2-3(3).
21. Lehigh's failure to demonstrate that allowable emissions increases from these major modifications will not cause or contribute to air pollution in violation of any ambient air quality standard or applicable maximum allowable increase over the baseline concentration in any area is a violation of Indiana SIP Rule 326 IAC 2-2-5.

2008

22. After the June 14, 2002 compliance date of the Portland Cement Manufacturing NESHAP, Lehigh has operated Kilns 1, 2 and 3, which are Portland cement kilns, subject to an opacity emission limit of less than 20 % opacity.
23. Lehigh submitted a Monitoring System Performance report for the period of July 1, 2008 through December 21, 2008 on February 6, 2009. It showed emissions greater than 20 % on Kiln 1 for 0.39 % of the reporting period.
24. Lehigh submitted a Monitoring System Performance report for the period of July 1, 2008 through December 21, 2008 on February 6, 2009. It showed emissions greater than 20 % on Kiln 2 for 1.60 % of the reporting period.
25. Lehigh submitted a Monitoring System Performance report for the period of July 1, 2008 through December 21, 2008 on February 6, 2009. It showed emissions greater than 20 % on Kiln 3 for 0.84 % of the reporting period.

2009

26. After the June 14, 2002 compliance date of the Portland Cement Manufacturing NESHAP, Lehigh has operated Kilns 1, 2 and 3, which are Portland cement kilns, subject to an opacity emission limit of less than 20 % opacity.
27. Lehigh submitted a Quarterly Monitoring System Performance report for the period of January 1, 2009 through March 31, 2009 on April 30, 2009. It showed emissions greater than 20% on Kiln 1 for 1.08 % of the reporting period.
28. Lehigh submitted a Quarterly Monitoring System Performance report for the period of January 1, 2009 through March 31, 2009 on April 30, 2009. It showed emissions greater than 20% on Kiln 1 for 0.53 % of the reporting period.
29. Lehigh submitted a Quarterly Monitoring System Performance report for the period of January 1, 2009 through March 31, 2009 on April 30, 2009. It showed emissions greater than 20% on Kiln 1 for 0.95 % of the reporting period.

Title V

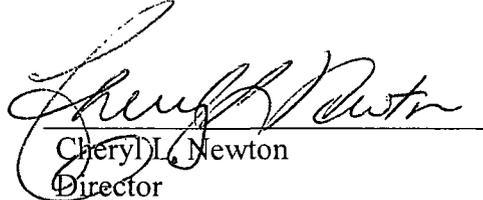
30. Lehigh continuously violates Title V permitting requirements at Section 503 of the CAA and 40 C.F.R. Part 70, because it has yet to submit a complete application for a Title V operating permit for the Facility that identifies all applicable requirements, that accurately certifies compliance with such requirements, and that contains a compliance plan for all applicable requirements for which it is not in compliance.

Environmental Impact of Violations

1. Excess emissions of NO_x increase ground level concentrations of ozone and nitrogen dioxide, both of which can cause respiratory inflammation, increased difficulty breathing, and lung damage. NO_x emissions also contribute to acid rain, global warming, the formation of fine particles in the atmosphere, water quality deterioration, and visibility impairment.
2. Excess emissions of SO₂ increase the amount of acid rain and public exposure to unhealthy levels of SO₂. SO₂ reacts with other chemicals in the air to form tiny sulfate particles. Long term exposure to high levels of SO₂ gas and particles can cause respiratory illness, aggravate existing heart disease, and lead to premature death.
3. Excess emissions of sulfuric acid mist increase public exposure to H₂SO₄, which is absorbed through mucous membranes, ultimately into the bloodstream. Sulfuric acid mist is very corrosive and would badly burn any plants, birds or land animals exposed to it. Long-term exposure to sulfuric acid mists or aerosols could cause symptoms of respiratory irritation such as bronchial hyperreactivity.

4. Excess emissions of PM₁₀ increase public exposure to unhealthy fine particulate matter. Fine particulate matter contributes to respiratory problems, lung damage, and premature deaths.

9/2/09
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice and Finding of Violation, No. EPA-5-09-IN-
by Certified Mail, Return Receipt Requested, to:

Scott Quaas
Environmental Manager
Lehigh Cement Company
180 North Meridian Road
Mitchell, Indiana 47446

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

Phil Perry, Chief
Compliance and Enforcement Branch
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 20 day of September, 2009.



Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000589159358