



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

NOV 23 2005

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Re: Finding of Violation
Lehigh Cement Company
Mitchell, Indiana

Dear Ms. Tolliver:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Finding of Violation (FOV) to Lehigh Cement Company (you). We find that you have violated Section 112 of the Act, 42 U.S.C. § 7412 and certain conditions of your Title V operating permit at your Mitchell, Indiana facility.

We have several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). 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 FOV.

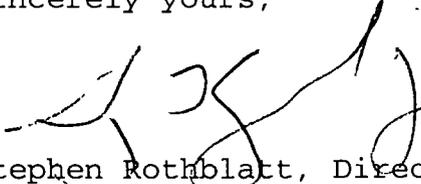
We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

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,



ACTING

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

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

standard bcc's: official file copy w/attachment(s)
originating organization reading file w/attachment(s)

other bcc's: Sabrina Argentieri, ORC (C-14J)
Stephen Mendoza, ORC Section Chief w/attachment(s)

Creation Date:	November 22, 2005
Filename:	C:\EPAWork\Documents\Lehigh\Lehigh_FOV1 11 18 05.wpd
Legend:	ARD:AECAB:AECAS(IL/IN)D.Schaufelberger

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Lehigh Cement Company) **FINDING OF VIOLATION**
Mitchell, Indiana)
) **EPA-5-06-IN-09**
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7403 et seq.)
_____)

FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) is issuing this Finding of Violation to Lehigh Cement Company (Lehigh) pursuant to Sections 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3). U.S. EPA finds that Lehigh's cement manufacturing facility located at 121 North First Street in Mitchell, Indiana is violating its Title V operating permit and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Portland Cement Manufacturers at 40 C.F.R. Part 63, Subpart LLL as follows:

Statutory and Regulatory Authority

National Emission Standards for Hazardous Air Pollutants

1. On June 14, 1999, in accordance with Section 112(d) of the Act, 42 U.S.C. § 7412(d), U.S. EPA promulgated the NESHAP for the Portland Cement Manufacturing Industry, 40 C.F.R. Part 63, Subpart LLL, §§ 63.1340 - 63.1359.
2. Subpart LLL applies to each new and existing Portland cement plant which is a major source or an area source, as defined in 40 C.F.R. § 63.2. 40 C.F.R. § 63.1340(a).
3. A "major source" is defined as any stationary source that "...emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants...". 40 C.F.R. § 63.2.
4. 40 C.F.R. § 63.6(e) states that at all times, including periods of startup, shutdown, and malfunction, owners or operators shall operate and maintain any affected source,

including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards.

5. 40 C.F.R. § 63.1351(a) provides that existing affected sources subject to Subpart LLL shall comply with its requirements by June 14, 2002.
6. 40 C.F.R. § 63.1343(b)(2) requires that each affected kiln at a major source shall not exhibit opacity greater than 20 percent.
7. 40 C.F.R. § 63.1343(b)(3) sets forth limits for dioxins and furans (D/F) discharged from each kiln located at major sources.
8. 40 C.F.R. § 63.1344 states that the owner or operator of a kiln subject to a D/F emissions limitation under 40 C.F.R. § 63.1343 must operate the kiln such that the temperature of the gas at the inlet to the kiln particulate matter (PM) control device does not exceed the applicable temperature limit established during the D/F compliance testing.
9. 40 C.F.R. § 63.1350(f)(3) requires the owner or operator of an affected source subject to the D/F emissions limitations shall calculate the three-hour rolling average PM device inlet temperature as the average of 180 successive one-minute average temperatures.
10. 40 C.F.R. § 63.1354(b)(9)(i) requires the owner or operator submit a summary report semiannually which contains all exceedences of maximum control device inlet gas temperature limits.

Title V Operating Permit

11. Section 502 of the Act, 42 U.S.C. §7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.
12. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds

that any person has violated or is in violation of a requirement or prohibition of Title V of the Act, or any rule promulgated, issued, or approved under Title V of the Act.

13. The U.S. EPA promulgated final interim approval of the Indiana Title V program on November 14, 1995 (60 Fed. Reg. 57191), and the program became effective on that date.
14. The permittee must comply with all conditions of its Title V/Part 70 operating 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).
15. 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).
16. The Indiana Department of Environmental Management (IDEM) issued to Lehigh a Title V operating permit, which became effective on December 30, 2002.
17. Condition D.4.4(b) of Lehigh's Title V operating permit states that visible emissions from Kiln #1, Kiln #2, and Kiln #3 shall be limited to twenty percent (20%) opacity.
18. Condition D.4.4(d) of Lehigh's Title V operating permit states that Kiln #1, Kiln #2, and Kiln #3 shall be operated such that the three hour rolling average temperature of the gas at the inlet to the kiln's particulate matter control device does not exceed the average of the run average temperatures determined during the required D/F performance tests.
19. Condition D.4.12(d)(3) requires the owner or operator of an affected source subject to the D/F emissions limitations shall calculate the three-hour rolling average PM device inlet temperature as the average of 180 successive one-minute average temperatures.
20. Condition D.4.17(c)(1) requires the owner or operator submit a summary report semi-annually which contains all exceedences of maximum control device inlet gas temperature limits.

Lehigh's Facility

21. Lehigh owns and operates a Portland cement plant at 121 North First Street, Mitchell, Indiana.
22. The Mitchell, Indiana facility currently operates three one-stage preheater cement kilns (Kiln #1, Kiln #2, and Kiln #3).
23. The Lehigh facility is a major stationary source for Hazardous Air Pollutants (HAP) and, therefore, is subject to the major source requirements of 40 C.F.R. Part 63, Subparts A and LLL.
24. Lehigh is required by 40 C.F.R. § 63.10(e)(3) to submit an excess emissions and continuous monitoring system performance report and/or a summary report to the Administrator on a semi-annual basis.
25. In December, 2003, Lehigh conducted compliance testing at Kiln #1 and Kiln #2 to demonstrated compliance with the D/F limitations of 40 C.F.R. § 63.1343(b)(3).
26. The average PM inlet temperatures for Kiln #2 during the D/F testing was 369 degrees Fahrenheit.
27. Lehigh's Kiln #1 and Kiln #2 are subject to the 20% opacity limitation of 40 C.F.R. § 63.1343(b)(2).
28. Lehigh is required by 40 C.F.R. § 63.1350(f)(3) to calculate the three-hour rolling average PM device inlet exhaust gas temperature using the average of 180 successive one-minute average temperatures.
29. Lehigh is required by 40 C.F.R. § 63.1354(b)(9)(i) to submit a summary report semiannually which contains all exceedences of maximum control device inlet gas temperature limits.

Violations

30. Between January 1, 2005 and September 30, 2005, Lehigh exceeded the 3-hour rolling average D/F limits at cement Kiln #1 by not maintaining the optimum PM inlet exhaust gas temperature necessary to control D/F emissions, during a minimum of 9 three-hour average time periods. These temperature exceedences constitute violations of

40 C.F.R. § 63.1344(a) and Condition D.4.4(d) of Lehigh's Title V operating permit.

31. Between January 1, 2005 and September 30, 2005, Lehigh exceeded the 3-hour rolling average D/F limits at cement Kiln #2 by not maintaining the optimum PM inlet exhaust gas temperature necessary to control D/F emissions, during a minimum of 181 three-hour average time periods. These temperature exceedences constitute violations of 40 C.F.R. § 63.1344(a) and Condition D.4.4(d) of Lehigh's Title V operating permit.
32. Lehigh failed to submit a semi-annual summary report which contains all exceedences of maximum control device inlet gas temperature limits for Kiln #1, Kiln #2, and Kiln #3, thus violating the requirements of 40 C.F.R. § 63.1354(b)(9)(i) and Condition D.4.17(c)(1) of Lehigh's Title V operating permit.
33. Lehigh failed to calculate the three-hour rolling average PM device inlet temperatures as the average of 180 successive one-minute average temperatures for Kiln #1, Kiln #2, and Kiln #3, thus violating the requirements of 40 C.F.R. § 63.1350(f)(3) and Condition D.4.12(d)(3) of Lehigh's Title V operating permit.
34. Between April 1, 2005 and September 30, 2005, emissions from Lehigh's Kiln #1 exceeded the 20% opacity limitation for 887 six-minute average periods during the 6-month period. These exceedences constitute violations of 40 C.F.R. § 63.1343(b)(2) and Condition D.4.4(b) of Lehigh's Title V operating permit.
35. Between April 1, 2005 and September 30, 2005, emissions from Lehigh's Kiln #2 exceeded the 20% opacity limitation for 818 six-minute average periods during the 6-month period. These exceedences constitute violations of 40 C.F.R. § 63.1343(b)(2) and Condition D.4.4(b) of Lehigh's Title V operating permit.

36. Between January 1, 2005 and March 28, 2005, emissions from Lehigh's Kiln #1/2 exceeded the 20% opacity limitation for 615 six-minute average periods during the 3-month period. These exceedences constitute violations of 40 C.F.R. § 63.1343(b)(2) and Condition D.4.4(b) of Lehigh's Title V operating permit.

11/23/05
Date

Stephen Rothblatt ACTING
Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Finding of Violation, No. EPA-5-06-IN-09 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 copies of the 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 28th day of November, 2005.


Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0005 8909 7711