



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUL 15 2010

REPLY TO THE ATTENTION OF:

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Joseph P. Montgomery  
Title V Responsible Official  
Martin Marietta Magnesia Specialties, Inc.  
755 Lime Road  
Woodville, Ohio 43469

Re: Notice of Violation/Finding of Violation  
Martin Marietta Magnesia Specialties, Woodville, Ohio

Dear Mr. Montgomery:

This letter advises you that the Environmental Protection Agency has determined that Martin Marietta Magnesia Specialties' facility at 755 Lime Road, Woodville, Ohio (Martin Marietta, the facility, or you) has violated the Clean Air Act (CAA or the Act) and the Ohio State Implementation Plan (Ohio SIP). The requirements violated are described below. We are today issuing to you a Notice of Violation/Finding of Violation (NOV/FOV) for these violations.

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. Among other things, each implementation plan must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. The State of Ohio has incorporated such a permitting program into the Ohio SIP. Under this program, owners or operators must obtain a permit to install (PTI) from the director of the Ohio Environmental Protection Agency (Ohio EPA) before beginning installation of a new source of air pollutants or the modification of an existing air contaminant source.

Title I, Part C of the CAA requires that all SIP permit programs contain rules regulating the construction and modification of major stationary sources in areas that have achieved attainment with the NAAQS. These rules are known as Prevention of Significant Deterioration (PSD). Under PSD rules, any major stationary source must obtain a preconstruction permit prior to commencing construction on any modification, if the modification is major in that it is projected to result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has achieved the NAAQS for that pollutant. All preconstruction permits issued to sources subject to PSD must require (1) the application of Best Available Control

Technology (BACT) and (2) a demonstration that the proposed modification does not cause or contribute to a violation of the NAAQS or cause any other significant deterioration of air quality. The State of Ohio has incorporated the PSD rules into its SIP.

EPA finds that you have violated the above-listed rules and regulations at your Woodville, Ohio facility. Section 113 of the Act 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.

Before we decide which enforcement option is appropriate, Section 113 of the Act provides you with the opportunity to request a conference with us about 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. You may have an attorney represent and accompany you at this conference.

The EPA contacts in this matter are Virginia Palmer and Kathleen Schnieders. You may call them at (312) 353-2089 and (312) 353-8912, respectively. If you wish to request a conference, you should do so within 10 days following receipt of this NOV/FOV. The parties should hold the conference within 30 days following receipt of this notice.

Sincerely,

  
for Cheryl L. Newton  
Director  
Air and Radiation Division

Enclosure

cc: Bob Hodanbosi, Ohio Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF:	)	NOTICE OF VIOLATION/FINDING
	)	OF VIOLATION
Martin Marietta Magnesia Specialties, LLC	)	
Woodville, Ohio	)	EPA-5-10-OH-20
	)	
Proceedings Pursuant to the Clean Air Act,	)	
<u>42 U.S.C. §§ 7401 et seq.</u>	)	

**NOTICE AND FINDING OF VIOLATION**

Martin Marietta Magnesia Specialties (you or Martin Marietta) owns and operates a lime manufacturing facility at 755 Lime Road, Woodville, Ohio (the facility). United States Environmental Protection Agency (EPA) is sending this Notice of Violation and Finding of Violation (NOV/FOV) to you because you conducted major modifications at the facility without obtaining a Prevention of Significant Deterioration (PSD) permit as required by PSD rules. Such a PSD permit would have required the installation and continuous operation of Best Available Control Technology (BACT) for control of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) on Kilns #1 and #2 and BACT for NO<sub>x</sub> on Kilns #4, #5, and #6. The underlying statutory and regulatory requirements include provisions of the Clean Air Act (CAA or the Act), its implementing regulations, and the Ohio State Implementation Plan (Ohio SIP).

Section 113 of the Act provides you with the opportunity to request a conference with us to discuss the violations alleged in the FOV/NOV. 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.

**Explanation of Violations**

The following are the statutory and regulatory bases of the violations and how Martin Marietta violated these requirements.

**Regulatory Authorities**

Prevention of Significant Deterioration

1. Part C of Title I of the CAA 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 achieved the National Ambient Air Quality Standards (NAAQS) for that

pollutant. Part C and its implementing regulations further require that a source subject to PSD regulations install BACT.

2. Sections 110(a) and 161 of the CAA, 42 U.S.C. 7410(a) and 7471, require states to adopt a SIP that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.
3. A state may comply with Sections 110(a) and 161 of the CAA by having its own PSD regulations approved as part of its SIP by EPA, provided they are at least as stringent as those set forth at 40 C.F.R. § 51.166.
4. If a state does not have a PSD program that has been approved by EPA and incorporated into the SIP; the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).
5. On May 1, 1980, EPA disapproved Ohio's proposed PSD program and incorporated by reference the PSD regulations of 40 C.F.R. § 52.21(b) through (w) into the Ohio SIP. EPA also delegated to Ohio the authority to implement the federal PSD program incorporated into the Ohio SIP. 46 Fed. Reg. 9580 (January 29, 1981). *See* 40 C.F.R. § 52.1884.
6. On October 10, 2001, EPA conditionally approved revisions to the Ohio SIP to incorporate Ohio's PSD program, effective October 10, 2001. 66 Fed. Reg. 51570 (October 10, 2001). On January 22, 2003, EPA granted final approval for Ohio's PSD program, effective March 10, 2003. 68 Fed. Reg. 2909 (January 22, 2003).
7. OAC Rule 3745-31-01(LL) and 40 C.F.R. § 52.21(b)(1)(i)(a) define a "major stationary source" as any stationary source within one of 28 source categories which emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation under the CAA. Lime plants are included among the 28 source categories.
8. OAC Rule 3745-31-01(JJ) and 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 emissions increase of any pollutant subject to regulation under CAA.
9. OAC Rule 3745-31-01(TT) and 40 C.F.R. § 52.21(b)(3)(i) define "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 increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable."
10. For SO<sub>2</sub>, a significant net emissions increase is defined as any increase in SO<sub>2</sub> of 40 tons or more per year. OAC 3745-31-01(MMMM) and 40 C.F.R. § 52.21(b)(23)(i).

11. For NO<sub>x</sub>, a significant net emissions increase is defined as any increase in NO<sub>x</sub> of 40 tons or more per year. OAC Rule 3745-31-01(MMMMM) and 40 C.F.R. § 52.21(b)(23)(i)
12. OAC Rule 3745-31-15 and 40 C.F.R. § 52.21(j)(3) require a major modification to apply BACT for each regulated pollutant for which it would result in a significant net emissions increase at the source.
13. OAC Rule 3745-31-13 and 40 C.F.R. § 52.21(a)(2)(iii) [formerly 40 C.F.R. § 52.21(i)] provide that no major modification shall begin actual construction without a permit that states that the major modification will meet the requirements of OAC Rules 3745-31-01 through 3745-31-20, 40 C.F.R. § 52.21(j) through (r)(5).

#### Requirements for Ohio SIP Permits to Install

14. Permit to Install (PTI) rules in the Ohio SIP at OAC Rule 3745-31-02(A) require any person that installs a new source of air pollutants or modifies an air contaminant source to first obtain a PTI from Ohio EPA.

#### Requirements for Title V Operating Permits

15. 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 PSD requirements, are collected in one place.
16. The Title V permit program requires that each Title V permit include enforceable emission limitations and such other conditions as are necessary to assure compliance with "applicable requirements" of the CAA and the requirements of the applicable SIP. "Applicable requirements" include any applicable PSD requirements.
17. 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 applicable requirements (including any requirement to meet BACT pursuant to PSD), certifies compliance with all applicable requirements, provides information that may be necessary to determine the applicability of other applicable requirements of the CAA and contains a compliance plan for all applicable requirements for which the source is not in compliance. CAA § 503(c), 42 U.S.C. § 7661b(c); CAA § 501(3); 42 U.S.C. § 7661(c).
18. Title V permit application requirements are codified at Section 503 of the CAA, 42 U.S.C. 7661b, with implementing regulations at 40 C.F.R. § 70. Ohio's Title V permit program is codified at OAC Rule 3745-77.

## **Factual Findings**

19. Martin Marietta Magnesia Specialties operates a lime plant facility at 755 Lime Road, Woodville, Sandusky County, Ohio (the facility).
20. At all times relevant to this matter, Sandusky County, Ohio was listed as attainment or unclassifiable for SO<sub>2</sub> and NO<sub>x</sub>.
21. The facility is a major stationary source insofar as it has the potential to emit SO<sub>2</sub> and NO<sub>x</sub> in excess of 100 tons per year. 40 C.F.R. § 52.21(b)(1)(i)(a) and OAC 3745-31-01(LLL)

### 1980 Project – Kilns #1 and #2

22. In 1980, the facility completed construction of a project at Kilns #1 and #2 to convert them from firing Fuel Oil #6 to coal. This project included installation of truck/railroad unloading, coal feeders, a coal crusher, and covered belt conveyors with a baghouse.
23. The 1980 Project on Kilns #1 and #2 constitutes a modification to an air pollution source.
24. The 1980 Project resulted in an emissions increase of SO<sub>2</sub> above the significance threshold, thus making the project a major modification.
25. The facility received a PTI from the State of Ohio for the 1980 Project. However, this permit was not a PSD permit and failed to conduct any modeling or to evaluate BACT controls, as required by the PSD program, despite the fact that the permit application showed a projected significant increase in SO<sub>2</sub> emissions.

### Mid-1980's Project – Kiln #6

26. In the mid-1980s, the facility completed a construction project at Kiln # 6 to install a preheater.
27. The mid-1980s Project on Kiln #6 constitutes a modification to an air pollution source.
28. The mid-1980s Project enabled the facility to increase lime production in a manner that would increase emissions of NO<sub>x</sub> above the significance threshold, thus making the project a major modification.
29. The facility failed to obtain any permits, conduct any modeling, or undergo any other sort of pre-construction review for these major modifications.

#### 1987 Project – Kiln #4, #5, and #6

30. In 1987, the facility completed a construction project at Kilns #4, #5, and #6 to modify the burning systems on the kilns from direct-fired to indirect-fired.
31. The 1987 Project on Kilns #4, #5, and #6 constitutes a modification to an air pollution source.
32. The 1987 Project enabled the facility to increase lime production in a manner that would increase emissions of NO<sub>x</sub> above the significance threshold, thus making the project a major modification.
33. The facility failed to obtain any permits, conduct any modeling, or undergo any other sort of pre-construction review for these modifications.

#### 1996 Project – Kiln #2

34. In 1996, the facility completed a construction project at Kiln #2, including installing metallic and refractory kiln internals, low abrading castable, insulating fire brick, tearing out the existing refractory, and modifying the lime transfer system.
35. The 1996 Project on Kiln #2 constitutes a modification to an air pollution source.
36. The 1996 Project enabled the facility to increase lime production in a manner that would increase emissions of SO<sub>2</sub> and NO<sub>x</sub> above the significance threshold, thus making the project a major modification.
37. The facility failed to obtain any permits, conduct any modeling, or undergo any other sort of pre-construction review for this modification.

#### 1999 Project – Kiln #4

38. In 1999, the facility completed a construction project at Kiln #4 to automate operation of the kiln in order to optimize production.
39. The 1999 Project on Kiln #4 constitutes a modification to an air pollution source.
40. The 1999 Project enabled the facility to increase lime production in a manner that would increase emissions of NO<sub>x</sub> above the significance threshold, thus making the project a major modification.
41. The facility failed to obtain any permits or conduct any modeling, or undergo any other sort of pre-construction review for this major modification.

### 2005 Project – Kiln #1

42. In 2005, the facility completed a construction project at Kiln #1, including installation of trefoils, air cannons, a new ID fan and housing, a new kiln drive, motor and gear reducer and larger thrust rollers and a modification of the multi-clone to remove more particulate.
43. The 2005 Project on Kiln #1 constitutes a modification to an air pollution source.
44. The 2005 Project enabled the facility to increase lime production in a manner that would increase emissions of SO<sub>2</sub> and NO<sub>x</sub> above the significance threshold, thus making the project a major modification.
45. The facility failed to obtain any permits or conduct any modeling for this major modification.

### 2006 Project – Kilns #4, #5, and #6

46. In 2006, the facility completed a construction project at the tertiary crusher that feeds Kilns #4, #5, and #6.
47. The 2006 Project constitutes a modification to an air pollution source.
48. The 2006 Project enabled the facility to increase lime production in a manner that would increase emissions of NO<sub>x</sub> above the significance threshold, thus making the project a major modification.
49. The facility failed to obtain any permits, conduct any modeling, or undergo any other sort of pre-construction review for this major modification.

### **Violations**

50. Martin Marietta's failure to apply BACT to control emissions of NO<sub>x</sub> and/or SO<sub>2</sub> resulting from each of the foregoing projects is a continuing violation of Ohio SIP Rule 3745-31-15(D) and 40 C.F.R. § 52.21(j)(3).
51. Martin Marietta's failure to demonstrate that allowable emissions increases from each of the foregoing major modifications would 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 Ohio SIP Rule 3745-31-14(D) and 40 C.F.R. § 52.21(k).
52. The facility continuously violates PSD rules at OAC Rules 3745-31-01 through 3745-31-20 and 40 C.F.R. § 52.21(j) through (r) because it continues to operate its Kilns #1, #2, #4, #5 and #6 without: (1) PSD PTIs; (2) BACT control equipment; and (3)

demonstrating that the modifications described above did not cause a significant deterioration in air quality.

53. Martin Marietta's failure to obtain construction permits that meet the PSD requirements in Ohio SIP Rules 3745-31-01 through 3745-31-20 and 40 C.F.R. § 52.21(j) through (r) constitutes violations of Ohio SIP Rule 3745-31-13(A) and 40 C.F.R. § 52.21(a)(2)(iii).
54. The facility continuously violates OAC Rule 3745-31-02(A) because the foregoing projects constitute modifications without first obtaining PTIs from the director of the Ohio EPA.
55. The facility continuously violates Title V permitting requirements at Section 503 of the CAA and 40 C.F.R. § 70.5, 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.
56. The failure of Martin Marietta to meet the PSD requirements in the Ohio SIP and 40 C.F.R. § 51.21 as well as the Title V requirements constitute violations of the Act.

#### **Environmental Impact of Violations**

1. Violation of the SO<sub>2</sub> requirements increases the quantity of SO<sub>2</sub> in the environment. SO<sub>2</sub> causes severe respiratory problems and contributes to childhood asthma. SO<sub>2</sub> is a significant contributor to acid rain, visibility impairment, fine particulate matter formation and smog.
2. Violation of the NO<sub>x</sub> requirements increases ground-level concentrations of ozone and nitrogen dioxide, both of which can cause respiratory inflammation, increased difficulty breathing, and lung damage. NO<sub>x</sub> emissions also contribute to acid rain, global warming, the formation of fine particles in the atmosphere, water quality deterioration, and visibility impairment.

Date 7/15/10

*William L. MacDowell*  
Cheryl L. Newton  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Loretta Shaffer, certify that I sent a Notice of Violation and Finding of Violation, No. EPA-5-10-OH-20, by Certified Mail, Return Receipt Requested, to:

Joseph P. Montgomery  
Martin Marietta Specialties, Inc.  
755 Lime Road  
Woodville, Ohio 434699

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

Bob Hodanbosi  
Chief, Division of Air Pollution Control  
Ohio Environmental Protection Agency  
1800 WaterMark Drive  
Columbus, Ohio 43266-1049

on the 8 day of July, 2010.

*Danielle Fields for*  
Loretta Shaffer  
Administrative Program Assistant  
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7670 1716