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

SEP 23 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Jeff Scott, Plant Manager
Lafarge North America Inc.
11435 County Road 176
Paulding, Ohio 45879-8834

Dear Mr. Scott:

I have enclosed a file stamped Consent Agreement and Final Order ("CAFO") which resolves case docket number **CAA-05-2015-0059** with Lafarge North America Inc. ("Lafarge"). As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on 9/23/2015. Pursuant to paragraph 33 of the CAFO, Lafarge must pay the civil penalty within 30 days of the date the CAFO is filed. Your payment must include the case docket number **CAA-05-2015-0059**

If you have any questions regarding the CAFO, please contact Charles Hall of my staff at (312) 353-3443 or by e-mail at hall.charles@epa.gov or Louise Gross, Associate Regional Counsel at (312) 886-6844 or gross.louise@epa.gov.

Thank you for your cooperation.

Sincerely,

Brian Dickens

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section Minnesota/Ohio

cc: Robert Hodanbosi, Ohio Environmental Protection Agency

Mark Budge, Northwest District Office
Ohio Environmental Protection Agency

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Recycled Paper (100% Post-Consumer)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
RECEIVED
SEP 23 2015
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2015-0059**
Lafarge North America Inc Paulding, Ohio	)	**Proceeding to Assess a Civil Penalty Under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)**
Respondent.	)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Lafarge North America Inc. (Lafarge), a corporation doing business in Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Under Section 112 of the CAA, on September 30, 1999, EPA promulgated the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors at 40 C.F.R. §§ 63.1200 through 63.1221 (hereinafter, "the HWC MACT").

10. The HWC MACT applies to, among other things, the owner or operator of a hazardous waste burning cement kiln.

11. The owner or operator of an existing affected facility was required to comply with the requirements of 40 C.F.R. §§ 63.1220(a) and the other requirements of the HWC MACT by October 14, 2008.

12. Pursuant to 40 C.F.R. § 63.1220(a)(3)(ii), the owner or operator of an existing hazardous waste burning cement kiln must not discharge or cause combustion gases to be emitted into the atmosphere that contain combined emissions of cadmium and lead, collectively semivolatile metals (SVM), in excess of 330 micrograms per dry standard cubic meter (μg/dscm) corrected to 7 percent oxygen (7% O_2).

13. Pursuant to 40 C.F.R. § 63.1220(a)(4)(i), the owner or operator of an existing hazardous waste burning cement kiln must not discharge or cause combustion gases to be emitted into the atmosphere that contain combined emissions of arsenic, beryllium, and

chromium, collectively low volatile metals (LVM), attributable to the hazardous waste in excess of 2.1×10^{-5} pounds per million British thermal units heat input from the hazardous waste (lbs. LVM/mmBTU).

14. Pursuant to 40 C.F.R. § 63.1220(a)(7)(i), the owner or operator of an existing hazardous waste burning cement kiln must not discharge or cause combustion gases to be emitted into the atmosphere that contain particulate matter (PM) in excess of 0.028 grains per dry standard cubic foot (gr/dscf) corrected to 7% O_2.

15. Pursuant to 40 C.F.R.§63.1206(c), the owner or operator of an existing hazardous waste burning cement kiln equipped with a baghouse for particulate control shall install and operate in compliance with the requirements contained therein a bag leak detection system (BLDS) or a particulate matter detection system (PMDS).

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $37,500 per day of violation up to a total of $320,000 for emission violations that occurred after December 6, 2013 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

17. Lafarge North America Inc. (Lafarge or Respondent) owns and operates two hazardous waste burning cement kilns located at 11435 County Road 176, Paulding, Ohio (the Facility). Lafarge designates them as Kiln #1 and Kiln #2.

18. The hazardous waste burning cement kilns at the Facility are subject to 40 C.F.R. Part 63, Subpart EEE.

19. On August 6 through 8, 2014, Lafarge conducted a comprehensive performance test (CPT) on Kiln #1 and Kiln #2, as required by 40 C.F.R. § 63.1207.

20. During the CPT, the three-run average mass emission concentration of SVM from Kiln #1 was 569 μg/dscm corrected to 7% O_2.

21. During the CPT, the three run average thermal emission concentration of LVM from Kiln #1 was 4.0×10^{-5} lbs. LVM/mmBTU.

22. During the CPT, the three run average mass emission concentration of PM from Kiln #1 was 0.107 gr/dscf corrected to 7% O_2, which is equal to 244.8 milligrams per dry standard cubic meter corrected to 7% O_2.

23. During the CPT, Lafarge failed to operate its BLDS in compliance with the requirements of 40 C.F.R. § 63.1206(c), which a Lafarge had elected to install in order to comply with the requirements of that provision, in accordance with the requirements of 40 C.F.R. § 63.1206(c)(8).

24. On September 15, 2014, Lafarge shut down Kiln #1 and replaced nine leaking bags in its baghouse. Lafarge also sealed off the inlets for an additional twelve leaking bags for future repair.

25. On October 8, 2014, Lafarge re-tested the SVM, LVM, and PM emissions from Kiln #1.

26. During the re-test, the three run average mass emission concentration of SVM from Kiln #1 was 10.8 μg/dscm corrected to 7% O_2; the average thermal concentration of LVM from Kiln #1 was 2.6×10^{-6} lbs. LVM/mmBTU; and the average mass emission concentration of PM from Kiln #1 was 0.0023 gr/dscf corrected to 7% O_2.

27. On November 6, 2014, Lafarge submitted a report with the final results of the August 6 through 8 and October 8, 2014, CPTs to EPA and the Ohio EPA.

28. Lafarge violated 40 C.F.R. § 63.1220(a)(3)(ii) on each day of operation between August 6 and September 15, 2014, by discharging from Kiln #1 combustion gases into the atmosphere that contained SVM in excess of 330 μg/dscm corrected to 7% O_2.

29. Lafarge violated 40 C.F.R. § 63.1220(a)(4)(i) on each day of operation between August 6 and September 15, 2014, by discharging from Kiln #1 combustion gases into the atmosphere that contained LVM in excess of 2.1×10^{-5} lbs. LVM/mmBTU.

30. Lafarge violated 40 C.F.R. § 63.1220(a)(7)(i) on each day of operation between August 6 and September 15, 2014, by discharging from Kiln #1 combustion gases into the atmosphere that contained PM in excess of 0.028 gr/dscf corrected to 7% O_2 from Kiln #1.

31. Lafarge violated 40 C.F.R. § 63.1206(c)(8) by failing to operate its BLDS in accordance with the requirements of that section.

Civil Penalty

32. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and the facts of this case (including Respondent's cooperation), Complainant has determined that an appropriate civil penalty to settle this action is $268,000.

33. Within 30 days after the effective date of this CAFO, Respondent must pay a civil penalty of $268,000 by FedWire electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read: "D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO.

34. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Louise Gross, Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard, C-14J
Chicago, Illinois 60604

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard, E-19J
Chicago, Illinois 60604

35. This civil penalty is not deductible for federal tax purposes.

36. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

37. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

38. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

39. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

40. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph ~~35~~ 38 c, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

41. Respondent certifies that it is complying fully with the HWC MACT.

42. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

43. The terms of this CAFO bind Respondent, its successors and assigns.

44. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

45. Each party agrees to bear its own costs and attorneys' fees in this action.

46. This CAFO constitutes the entire agreement between the parties.

Lafarge North America Inc., Respondent

8/13/2015
Date

Jeffrey Scott, Plant Manager
Lafarge North America Inc.

United States Environmental Protection Agency, Complainant

9/15/15
Date

George T. Czerniak, Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Lafarge North America Inc.
Docket No. CAA-05-2015-0059

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

21 September 2015
Date

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the matter of:
Docket Number: **CAA-05-2015-0059**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing ***Consent Agreement and Final Order***, which was filed on September 23, 2015, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Jeff Scott, Plant Manager
Lafarge North America Inc.
11435 County Road 176
Paulding, Ohio 45879-8834

Copy by E-mail to
Attorney for Complainant:

Steve Kohl
Skohl.@wnj.com

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: September 23, 2015

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4864