

AGREED BOARD ORDER

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Kosmos Cement Company

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77 (Air Pollution Control). This Agreement is made by and between the Board and Kosmos Cement Company (Company), a Kentucky general partnership, and is effective on the date of its adoption by the Board.

COMPANY: Kosmos Cement Company - Louisville Plant
15301 Dixie Highway
Louisville, Kentucky 40272

REGULATIONS INVOLVED:

District Regulation 1.06, Stationary Source Self Monitoring
District Regulation 3.01, Ambient Air Quality Standards

BACKGROUND AND DISCUSSION:

On August 5, 2013, the United States Environmental Protection Agency (U.S. EPA) designated a portion of the southwestern Louisville Metro area roughly bounded by Ethan Allen Way, Dixie Highway, the southern boundary of the Louisville Gas & Electric Company (LG&E) Mill Creek Electric Generating Station (Mill Creek) property, and the Ohio River as nonattainment for the 2010 1-hour Primary SO₂ National Ambient Air Quality Standard (NAAQS) of 75 parts per billion (ppb), effective October 4, 2013. *Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard*, 78 Fed. Reg. 47191 at 47200 (August 5, 2013) (codified at 40 CFR 81.318).

Mill Creek is the sole source of SO₂ emissions within the nonattainment area described above. LG&E recently completed substantial improvements to the air pollution control equipment at Mill Creek. The Kentucky Division for Air Quality (DAQ) and the Louisville Metro Air Pollution Control District (District) conducted modeling of Mill Creek in accordance with the *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions* Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, U.S. EPA to Regional Air Division Directors, Regions 1-10 (April 23, 2014), that, with the improvements, did not predict emissions in excess of the 1-hour SO₂ NAAQS. All other sources impacting the nonattainment area were modeled and accounted for in background ambient monitoring data. A 1-Hour SO₂ Plan for the Louisville/Jefferson County, Kentucky nonattainment area, which further discusses this modeling, has been proposed to address emissions from Mill Creek and demonstrate that the area will timely attain the 1-hour SO₂ NAAQS.

District Regulation 3.01, *Ambient Air Quality Standards*, Section 4 prohibits the emission of any air contaminant at levels or in such a ways as would interfere with the maintenance of an ambient air quality standard. As a result of earlier modeling of the Kosmos Cement Company (Company) by DAQ and the District, which was conducted in accordance with *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions*, the District has determined it is necessary to conduct ambient air quality monitoring to better characterize the ambient concentrations of SO₂ in the vicinity of the Company's facility and determine whether those SO₂ emissions violate the SO₂ NAAQS outside the nonattainment area. The ambient air quality monitoring shall be in accordance with 40 CFR Part 58 and U.S. EPA's non-binding technical assistance document titled, "SO₂ NAAQS Designations Source-Oriented Monitoring Technical Assistance Document" (Monitoring TAD February 2016) as appropriate and in the professional judgment of the District.

NOW THEREFORE BE IT ORDERED THAT:

1. Company shall comply with the SO₂ Monitoring Plan included as Attachment A and Public Access Control Plan included as Attachment B.
 2. Nothing in this Order affects, limits or waives any permitting requirement to which Company is subject. If any of the measures that Company has undertaken or will undertake in accordance with this Order are subject to any permit requirement under federal or state law or District regulations, such measures shall remain subject to such permitting requirements.
 3. Nothing in this Order affects, limits or waives the District's legal rights, remedies or causes of action based on statutes, regulations or permit conditions within the jurisdiction of the District, and Company reserves its rights and defenses thereto. The District expressly reserves its right to seek enforcement of this Order or to take further action through administrative orders or other means at any time and to take any other action it deems necessary, including the right to order all necessary remedial measures and assess penalties for proven violations of applicable laws or regulations, and Company reserves its defenses thereto. Nothing in this Order affects, limits or waives Company's legal rights, including Company's right to administrative or judicial review of any action by the District.
 4. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in this Order.
 5. Company has reviewed this Order and consents to all its requirements and terms.
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6. In the event that it is necessary for the District to seek a court order to enforce this Order, Company agrees to pay filing fees and costs of such action.

Dated this 19 day of April, 2017.

Louisville Metro Air Pollution Control Board

By: Robert W Powell M.D.
Robert W. Powell, M.D.
Chairman

Louisville Metro Air Pollution Control District

By: Paul Aud 4-18-17
Paul Aud, P.E.
Air Pollution Control Officer

Kosmos Cement Company

By: Dave Burfis
Dave Burfis
Manager, Kosmos Cement Co.

Approved as to form and legality:

By: Stacy Fritze Dott
Stacy Fritze/Dott
Assistant County Attorney

Attachment A

SO₂ Monitoring Plan

1. This SO₂ Monitoring Plan described herein shall be conducted in accordance with 40 CFR Part 58 and U.S. EPA's non-binding technical assistance document titled, "SO₂ NAAQS Designations Source-Oriented Monitoring Technical Assistance Document" (Monitoring TAD February 2016) as appropriate in the professional judgment of the District.
 2. Company shall submit a siting and operation costs agreement to establish an air monitoring site for SO₂ and meteorological data to be located on the Kosmos parcel generally indicated on Attachment C to the District by June 1, 2017. The Company agrees to pay the costs of establishing the monitoring site and associated equipment not to exceed \$75,000. The Company shall also pay costs associated with establishing any necessary access roads and electrical power, including monthly costs for electricity thereafter. The air monitoring site shall be operated as a State and Local Air Monitoring Station (SLAMS) or equivalent, for the collection of SO₂ and meteorological data to begin January 1, 2018 or 6 months from the date the site monitor location is approved by U.S. EPA, whichever is later.
 3. In the event U.S. EPA disapproves of site location of the monitoring site on the Kosmos parcel, the Company agrees to pay the costs of establishing the monitoring site and associated equipment not to exceed \$75,000 in costs at an alternate location. The Company shall also pay costs associated with establishing any necessary access roads and electrical power, including monthly costs for electricity thereafter. The air monitoring site shall be operated as a State and Local Air Monitoring Station (SLAMS) or equivalent, for the collection of SO₂ and meteorological data to begin January 1, 2018 or 6 months from the date the site monitor location is approved by U.S. EPA, whichever is later.
 4. Company shall submit an air monitoring site access agreement, including ingress and egress, to the District no later than June 1, 2017, for physical access to the air monitoring site located on the Kosmos parcel.
 5. The District shall develop all plans and submittals required for necessary approvals to site and operate the monitor under 40 CFR Part 58 with review and opportunity for written comment from the Company prior to submission to U.S. EPA. The District shall be responsible for all costs associated with this matter except as otherwise specifically provided in this Plan.
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6. The District shall operate the air monitoring site to monitor SO₂ and meteorological data as necessary to obtain 3 years of quality-assured data, which shall be reported to the U.S. EPA's Air Quality System. Monitoring data shall be shared with the Company on a monthly basis.
 7. Company shall take all steps necessary to remedy any impacts needed to meet the SO₂ NAAQS as identified by the District's ambient air monitoring as provided for in Paragraph 8 below.
 8. If, at the conclusion of the three-year monitoring period, the three-year average of the annual (99th percentile) of the daily maximum 1-hour average concentrations exceeds the 1-hour SO₂ NAAQS as provided for under 40 CFR §50.17(b) and as determined in accordance with Appendix T of Part 50, Company shall submit a written plan of necessary remedial measures to the District for approval within 6 months of the conclusion of the three-year monitoring period and a final regulatory determination that the monitor is not in compliance. The plan shall include a list of remedial measures and a schedule of milestones, including the timely submittal of permit applications, leading to compliance with the SO₂ NAAQS within 30 months of submitting its written plan.
 9. District monitoring shall continue until the end of the three year monitoring period. The monitor may be shut down according to the generally applicable criteria of 40 CFR 58.14 upon approval from U.S.EPA.
 10. Following completion of the monitoring period, Company shall retain ownership of all monitoring equipment Company purchased described herein. The District shall retain ownership of all District equipment, supplies, and similar items that are utilized at the site.
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Attachment B
Public Access Control Plan

Kosmos Cement Plant Public Access Control Plan

1. The Company shall implement the Public Access Control Plan described herein by June 1, 2017.

Purpose

The purpose of this document is to describe the Public Access Control Plan that will be used to protect the general public from health and safety hazards incident to the industrial activities at the Kosmos Cement Company cement manufacturing plant ("Kosmos"). Kosmos operates a cement manufacturing plant on 1,100 acres pursuant to a Title V permit issued by the Louisville Metro Air Pollution Control District (LMAPCD) (the "Property"). This plan describes the access control plan that will be used to implement access restrictions to the Property.

Kosmos is fully committed to meeting the applicable ambient air quality standards (AAQS) at the ambient air quality boundary of the Property. A primary purpose of this plan is to delineate the area to be protected and controlled for occupational health and safety within the Property boundary that is subject to unrestricted, general public access where the AAQS are applicable). A secondary purpose is to ensure that measures are in place to restrict public access within the Property boundary.

General Information

The Property is located at 15301 Dixie Highway, Louisville, Kentucky. Kosmos operates kilns at the Property to produce Portland Cement. Currently, access to the Property is by three paved roads from Dixie Highway. There is a fence blocking access to the Property from the north, a natural barrier to the west of the Property (see shadows on attached Google picture), and limited access via fenced neighboring property to the south. The Property's western portion is bordered by Dixie Highway, a major thoroughfare where traffic conditions and absence of sidewalk prevent pedestrian access to the Property from the west.



Kosmos Cement manufacturing facility aerial view. Fence Lines (in red) and Natural Barriers

Public Access Control Measures

Physical Barriers

The Property encompasses approximately 1,100 acres. (See Figure 1). At the Dixie Highway intersection, public access to the Property via roads will be controlled by gates that will be locked when the road is not in use.

Posting

In addition to the physical barriers cited above, public access to the Property will be restricted using strategically located signs. Signs restricting public access and warning of potential health hazards will be posted at intersection of Dixie Highway and the gravel road. The sign specifications will be as follows:

- Each sign will be 2 feet by 4 feet and will be mounted on posts.
- Each sign will be inspected semi-annually and will be repaired or replaced, as necessary.
- Each sign will be free of visible obstructions.
- Each sign will read:

CAUTION
RESTRICTED ACCESS
AMBIENT AIR QUALITY BOUNDARY
AUTHORIZED PERSONNEL ONLY
PLEASE CHECK IN WITH SECURITY

Proposed Surveillance

There are surveillance cameras at the main entrances to the Property which are monitored 24 hours per day. For all operations, all on-site Kosmos employees will be informed of the air permitting requirements to maintain an exclusion zone at the Property. Employees will be asked to observe the location perimeter as they conduct their regular duties. Any suspected violation of the exclusion zone by unauthorized persons will be immediately reported to Kosmos management.

Kosmos employees will periodically observe the perimeter of the Property. If unauthorized person(s) are observed, a log of the time and date of the observation will be recorded on the attached form. A record of the completed logs will be maintained on location in the Kosmos office.

Trespass Individuals

If an employee observes unauthorized person(s) within the Property boundary, appropriate measures will be taken by the employee to address potential health and safety concerns. If safety is not of immediate concern, employees will be instructed to use the following protocol when dealing with unauthorized entry. A log of the incident will be recorded on the attached form and maintained on location by Kosmos.

- Approach the unauthorized individual(s) and from a safe distance request that they leave the Property immediately.
- If the unauthorized individual(s) refuse to leave the Property after the above request, the individual(s) will be informed that the police will be notified. Kosmos shall notify the police. If the individual is apprehended by the police employee will request the name or names of the unauthorized individual(s) from the police officer. The employee will promptly log the encounter with the unauthorized individual(s) on the surveillance form. The data to be logged in such a situation will include:
 1. Day and time;
 2. The name of the individual(s) (if known or otherwise provided);
 3. The method of entry into the Property (e.g. by foot, snow machine, etc.);
 4. Duration of unauthorized presence within the ambient air boundary; and
 5. Other pertinent information as appropriate.

The employee will also report such incidents to Kosmos management.

Air Exclusion Zone
Surveillance Monitoring Form

<u>Date and Time</u>	<u>Surveillance Conducted by</u>	<u>Surveillance Comments</u>
_____	_____	_____
_____	_____	_____
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Attachment C

“KOSMOS PARCEL” MAP

