

AGREED BOARD ORDER NO. 05-02

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

**Incident Nos. 03594, 03518, 03540, 03573,
03572, 03741, 03756, 03806, and 03900**

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 Co. (Company).

COMPANY: Kosmos Cement Co.
15301 Dixie Highway
Louisville, Kentucky 40272-1000

REGULATION INVOLVED: 1.14 (Control of Fugitive Particulate Emissions)

NOTICE OF VIOLATION LETTER: No. 01603, dated July 7, 2004
No. 01659, dated October 15, 2004.

BACKGROUND AND DISCUSSION:

The Company operates a Portland cement manufacturing facility pursuant to Air Pollution Control District (District) Operating Permit No.156-97-TV, and is also subject to District Regulation 1.14, which requires the Company to take reasonable precautions to prevent particulate matter from becoming airborne beyond the property.

The District alleges that on a minimum of 20 occasions between July, 2003 and November, 2004, the Company failed to take precautions to prevent fugitive particulate emissions from becoming airborne beyond the plant property located at 15301 Dixie Highway. In each instance, the District observed fugitive emissions becoming airborne beyond the plant equipment and buildings, or collected cement particles from neighboring property downwind from the plant.

The Company has taken the following measures to control emissions of fugitive particulates at its plant:

1. In June, 2003, the Company repaired a hole in the wall of the clinker building that was allowing the emission of fugitive particulates;
2. Since July, 2003, the Company has closed, redesigned, paved, and re-opened an entrance on Dixie Highway that was previously a source of fugitive particulate emissions;

3. Since August, 2003, the Company has treated certain in-plant roads with chemical dust suppressant on a regular basis to mitigate dusty conditions;
4. Since October, 2003, the Company has begun sweeping the east shoulder of Dixie Highway and the median in front of the plant on a monthly basis to remove materials that cause dusty conditions;
5. In February, 2004, the Company installed an automatic dust suppressant system in the ground limestone storage area;
6. In December, 2004, the Company paved a portion of Depot Lane, as required by an Agreed Board Order dated September 15, 2004; and
7. In September, 2004, the Company applied for permits to construct dust collection systems for the clinker storage building and the hot tank area. The permits were issued in December, 2004, and the equipment was operational in February, 2005.

To fully resolve the violations alleged above of District Regulation 1.14, the parties agree to this Order assessing against the Company an administrative settlement of \$20,150. In addition, the Company agrees to continue to treat in-plant roads with chemical dust suppressant as necessary to mitigate dusty conditions; and to continue to sweep the east shoulder and the median of Dixie Highway in front of the plant on a monthly basis, or more often if necessary, to remove materials from the plant that cause dusty conditions.

On March 16, 2005, a public hearing was held before the Board on the proposed settlement. Based upon the evidence presented at that hearing, the Board determined that the proposed resolution and requirements were reasonable under the circumstances.

NOW THEREFORE, BE IT ORDERED THAT:

1. The Company has paid \$20,150 to the Louisville Metro Air Pollution Control District.
2. The Company shall continue to treat in-plant roads with chemical dust suppressant as necessary to mitigate dusty conditions; and to sweep the east shoulder and the median of Dixie Highway in front of the plant on a monthly basis, or more often if necessary, to remove materials from the plant that cause dusty conditions, unless the District determines that the sweeping has become unnecessary or is replaced with an alternate control and approves its discontinuation.
3. The Company has reviewed this Order and consents to all its requirements and terms. Further, the Company agrees to pay the cost of publishing legal notice of the public hearing.

4. In the event that it is necessary for the District to seek a court order to enforce this Order, the Company agrees to pay filing fees and costs of such action.

5. This Order fully resolves the violations alleged in District Incident Nos. 03594, 03518, 03540, 03573, 03572, 03741, 03756, 03806, and 03900.

6. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in the Order.

Dated this 16th day of March, 2005.

Louisville Metro Air Pollution Control Board

Cemex, Inc., doing business as,
Kosmos Cement Company

By: _____
Karen A. Cassidy
Chair

By: _____
Edmo Gutierrez
Plant Manager

Louisville Metro Air Pollution Control
District

By: _____
Jesse Goldsmith, P.E.
Engineering/Enforcement Manager

Approved as to form and legality:

By: _____
Lauren Anderson
Assistant County Attorney