

**ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM**

In the Matter of:

Kosmos Cement Company, LLC
Subsidiary of Eagle Materials, Inc.
15301 Dixie Highway
Louisville, KY 40272

Violation No. 210301

Violations of Article XXI, § 2108.01.c
("Breakdowns"), § 2103.12.k
("Reporting Requirements"), and
§ 2101.11 ("Prohibition of Air
Pollution") at property:

Kosmos Cement Company, LLC
Pittsburgh Terminal
200-B Neville Road
Pittsburgh, PA. 15225

ENFORCEMENT ORDER

NOW, this 5th day of March 2021, the Allegheny County Health Department (hereinafter "ACHD") issues this Enforcement Order after it has found and determined the following:

FINDINGS

1. The Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. §§ 7401-7671q, the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001-4014, and the ACHD is a local health agency organized under the Local Health Administration Law, 19 P.S. §§ 12001-12028, whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including, but not limited to, the ACHD's Rules and Regulations, Article XXI, "Air Pollution Control."

2. Kosmos Cement Company, LLC (hereinafter "Kosmos") owns and operates a Terminal facility located at 200-B Neville Road, Pittsburgh, PA. 15225. ACHD issued to Kosmos a Minor Source Operating Permit, #0017, on January 24, 2017.

3. On Monday, October 5, 2020, the ACHD Air Quality Program received a “Visible Emissions” complaint against the 200-B Neville Road facility.

4. On October 9, 2020, an ACHD Representative visited the 200-B Neville Road facility and spoke with the terminal manager of Kosmos. The ACHD Representative explained that the inspection was in response to the October 5, 2020 complaint. The terminal manager stated that a valve failed, needed to be replaced, and that the line was taken out-of-service until repairs could be made.

5. At the time of the inspection, ACHD had not received a breakdown report for the October 5, 2020 valve failure and subsequent emission event.

6. On Friday, October 16, 2020, an ACHD Representative communicated to the Environmental, Health and Safety Manager of Kosmos that it failed to submit the required breakdown report that is required to be submitted within 60 minutes of the breakdown.

7. The ACHD Representative communicated to Kosmos that it also failed to submit the follow-up report due no later than seven (7) days following the breakdown that occurred on October 5, 2020.

8. Failure to submit a breakdown report within 60 minutes of the breakdown and failure to submit written notice no later than seven (7) days following the event constitute violations of Article XXI § 2108.01.c which in part reads:

§2108.01 REPORTS REQUIRED

c. Breakdowns.

1. In the event that any air pollution control equipment, process equipment, or other source of air contaminants breaks down in such manner as to have a substantial likelihood of causing the emission of air contaminants in violation of this Article, or of causing the emission into the open air of potentially toxic or hazardous materials, the person responsible for such equipment or source shall immediately, but in no event later than 60 minutes after the commencement of the

breakdown, notify the Department of such breakdown and shall, as expeditiously as possible but in no event later than seven (7) days after the original notification, provide written notice to the Department.

9. On Wednesday, October 21, 2020, ACHD received the follow-up breakdown report from Kosmos for the October 5, 2020 valve failure. ACHD also received, on Friday, October 23, 2020, the semi-annual report for the time period beginning January 1, 2020 and ending June 30, 2020 which was due July 31, 2020.

10. Upon review, ACHD determined the semi-annual report to be incomplete due to missing monitoring data required to be included in the semi-annual report pursuant to OP#0017.

11. Kosmos included that the monitoring data was lost and nonrecoverable and was attributed to the transfer of ownership that occurred March 7, 2020.

12. The failure of Kosmos to submit the semi-annual report by the due date constitutes a violation of Article XXI, § 2103.12.k which in part reads:

§2103.12 ISSUANCE, STANDARD CONDITIONS

k. Standard reporting requirements. All permits issued under this Subpart shall include all applicable reporting requirements and require the following:

1. Submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports.

13. The failure of Kosmos to submit a semiannual report with all required monitoring data included constitutes a violation of Article XXI §2101.11.b.4 which in part reads:

§2101.11 PROHIBITION OF AIR POLLUTION

b. It shall be a violation of this Article for any person to:

4. Submit any application form, report, compliance certification, or any other submittal to the Department under this Article which is, in whole or in part, false, inaccurate, or incomplete.

14. Based on the emissions information provided by Kosmos in the submitted breakdown report, ACHD finds that Kosmos violated, Article §2101.11.b.1 which reads as follows:

§2101.11 Prohibition of Air Pollution

b. It shall be a violation of this Article for any person to:

1. Operate, or allow to be operated, any source in such manner as to allow the release of air contaminants into the open air or to cause air pollution as defined in this Article, except as is explicitly permitted by this Article.

15. According to information provided by Kosmos in the submitted breakdown report, a valve failure during the transfer of material allowed the release of cement to the open air.

16. Based on this information, ACHD finds that Kosmos violated § 2105.03 which reads as follows:

§2105.03 OPERATION AND MAINTENANCE

All air pollution control equipment required by this Article or any permit or order under this Article, and all equivalent compliance techniques which have been approved by the Department pursuant to this Article, shall be properly installed, maintained, and operated consistent with good air pollution control practice.

Order

NOW THEREFORE, pursuant to the granted to the ACHD by Article XXI, §§ 2109.03.a.1 and the Local Health Administration Law, 19 P.S. § 12010, it is hereby ordered that:

17. For the violations set forth in the preceding paragraphs, Kosmos Cement Company, LLC, is hereby assessed a civil penalty of **SEVEN THOUSAND ONE HUNDRED FIFTY DOLLARS (\$7,150.00)**. The civil penalty is as follows:

A. Gravity Based Component

Violation	Gravity Based Penalty	Number of Violations	Total Gravity Penalty
§ 2108.01.c.1 Failure to submit a Breakdown report within 60 minutes of the valve failure	\$900.00	1	\$900.00
§ 2103.12.k Failure to timely submit semi-annual report by July 31 for the time period beginning January 1, 2020 ending June 30, 2020.	\$900.00	1	\$900.00
§ 2101.11.b.1 Prohibition of Air Pollution	\$2,500.00	1	\$2,500.00
§ 2101.11.b.4 Failure to submit a complete semi-annual report	\$900.00	1	\$900.00
§ 2105.03 Failure to maintain the material handling equipment in accordance with good engineering practices to reduce emissions.	\$1,300.00	1	\$1,300.00
Gravity Component Subtotal			\$6,500.00

B. Adjustment Factor:

Degree of Cooperation: \$650.00
 Reluctant, slow, took some corrective
 Action but not all reasonable action

TOTAL CIVIL PENALTY **\$7,150.00**

18. Kosmos shall pay the total civil penalty amount within thirty (30) days of receipt of this Order. Payment shall be made by corporate or certified check, or the like, made payable to the "Allegheny County Clean Air Fund", and sent to Air Quality Manager, Allegheny County Health Department, 301 39th Street, Bldg. #7, Pittsburgh, PA 15201.

19. The civil penalty amount includes an adjustment for degree of cooperation. Kosmos was late with reporting the breakdown and semi-annual reports.

20. The ACHD has determined the above penalty in accordance with Article XXI § 2109.06.b. reflecting relevant factors including, but not limited to: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the economic benefit gained by failing to comply with the ACHD's regulations; the actions taken by Kosmos Cement Company, LLC, to minimize such violations and to prevent future violations.


21. Pursuant to Article XI ("Hearings and Appeals") of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order, you have thirty (30) days from issuance or receipt of this order in which to file an appeal. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219.

22. This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of the ACHD so orders. In the absence of a timely appeal, the term of this order shall become final.

23. The provisions of this Order shall apply to, be binding upon, and inure to the benefit of the ACHD and Kosmos, and upon their respective officers, directors, agents, contractors, employees, servants, successors, and assigns.

24. Please be aware that if you wish to appeal this Order, you are required within 30 days of receipt of this Order to either forward the penalty amount to the ACHD for placement in an escrow account or post an appeal bond to the ACHD in the amount of the penalty. Please review the specific requirements for prepaying the penalty or posting the appeal bond found in Article XXI, §§ 2109.06.a.2-3. A copy of Article XXI and Article XI may be found at

DONE and ENTERED this 5th day of March 2021, in Allegheny County, Pennsylvania.



Dean DeLuca
Air Quality Program Manager



Date