



DEPARTMENT OF JUSTICE

Lodging of Proposed First Amendment To Consent Decree under the Clean Air Act

On January 5, 2021, the Department of Justice lodged a proposed First Amendment to Consent Decree with the United States District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States, et al. v. Lehigh Cement Company LLC and Lehigh White Cement Company, LLC*, Civil Action No. 5:19-cv-05688-JFL.

On December 3, 2019, the United States and seven states and state or local agencies filed a Complaint alleging violations of the Clean Air Act, its regulations, and related state provisions at one or more of eleven Portland cement facilities owned or operated by Lehigh and Lehigh White Cement Company, LLC (“Lehigh White”). One of these facilities is located in Mitchell, Indiana (the “Mitchell facility”), and is owned and/or operated by Lehigh. The Mitchell facility is the subject of this amendment.

Simultaneously with filing the Complaint, the United States lodged a Consent Decree. The Consent Decree requires, *inter alia*, installation of emissions control technology for nitrogen oxides (“NO_x”) and sulfur dioxide (SO₂”), emissions monitoring systems, and specified NO_x and SO₂ emission limits (except that the emission limit for SO₂ at the Cupertino, CA facility will be established through a testing program). On November 19, 2020, following public comment, the Court approved and entered the Consent Decree.

The First Amendment would modify two dates contained in the Consent Decree relating to the Mitchell facility: (1) extend by two months the date for electing between two injunctive relief measures (either building a new kiln or kilns or retrofitting the existing kilns), and (2) extend the deadline for retrofitting the one of the existing kilns by four months, should Lehigh choose that option. The First Amendment would also revise the Consent Decree to make building the new kiln(s) the default option, should Lehigh fail to meet the deadline for selecting between building a new kiln(s) and retrofitting the existing kilns. The First Amendment does not

revise any deadlines relating to any of the other ten cement facilities subject to the Consent Decree, or make any changes other than those described above.

The publication of this notice opens a period for public comment on the First Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al. v. Lehigh Cement Company LLC and Lehigh White Cement Company, LLC*, Civil Action No. 5:19-cv-05688-JFL, D.J. Ref. No. 90-5-2-1-08531/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the First Amendment to Consent Decree may be examined and downloaded at this Justice Department website:
<https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the First Amendment to Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$1.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,
Assistant Section Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division.

