

Bay Area Air Quality Management District

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BAAQMD Regulation 9, Rule 13:

***NITROGEN OXIDES, PARTICULATE MATTER, AND TOXIC AIR CONTAMINANTS
FROM PORTLAND CEMENT MANUFACTURING***

Staff Report

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1.0 Executive Summary

The Bay Area Air Quality Management District (“Air District”) is proposing amendments to Regulation 9, Rule 13: *Nitrogen Oxides, Particulate Matter, and Toxic Air Contaminants from Portland Cement Manufacturing* (“Regulation 9-13” or “the rule”). Regulation 9-13 was adopted at a Public Hearing by the Board of Directors on September 19, 2012. The rule set emissions standards for NO_x, PM, and toxic air contaminants (TACs). The rule also requires analysis of health risk effects to the surrounding community from any modifications to the emissions stack of the kiln, and provides fugitive dust control and mitigation measures at the facility to further reduce particulate emissions. The proposed amendments will address technical problems with the current ammonia limit in the rule and will not result in changes in emissions from the facility.

Portland cement manufacturing is a multi-billion-dollar industry in the United States, with annual domestic consumption of over 500 pounds per person. One hundred plants across the country produce 85 to 90 percent of this total with imports accounting for the remaining portion.

Regulation 9-13 contains an ammonia standard to prevent excess emissions from control equipment installed to meet the NO_x standard in the rule. The Lehigh facility near Cupertino has a selective non-catalytic reduction (SNCR) system which injects an ammonium hydroxide solution (ammonium) to reduce NO_x and emissions limits are often imposed on such systems to prevent excess emissions (ammonia “slip”), typically limited to 10 parts per million by volume (ppmv) above background concentrations. The averaging period for the ammonia standard as it is currently stated in the rule is of insufficient duration to account for the variable background ammonia in the exhaust stream caused by the inherent variability of nitrate content in the limestone feedstock used to make cement. Additionally, the regulated procedure for determining background ammonia levels is similarly problematic.

To enable enforceability of the requirements of the rule, Air District staff recommends amending sections of the rule pertaining to the ammonia emissions (standard and baseline determination) to allow for an averaging period that better accommodates background concentration variability.

Simultaneous rule development efforts are underway to address health risk assessments and particulate matter more generally Air District-wide. These rules are likely to impact the Lehigh Facility. Source testing, research, and evaluation of emissions control methods are ongoing and Staff commits to develop further amendments in the future to address condensable PM and sulfur dioxide (SO₂) emissions and to review and confirm toxic emissions calculation methodologies and consider further measures to protect public health.

2.0 Background

Portland cement is combined with water, gravel, sand, or other aggregate to form concrete, which is used in road building and a variety of other construction projects. Portland cement manufacture is a \$10 billion per year industry in the United States. In 2015, Americans consumed 92 million tons of cement nationally, or 575 pounds per person for the year. Approximately 88% of that is produced in the United States with the rest imported primarily from China, Canada, Colombia, Mexico and Korea.

There are 104 Portland cement manufacturing plants operating in 36 states, with 10 in California, two in Northern California, and one in the Bay Area. Lehigh Southwest Cement Plant (Lehigh), located in unincorporated Santa Clara County, west of Cupertino, is the only cement manufacturing facility in the Air District. Consistent with national economic trends, Lehigh steadily decreased production from 2006 until 2010, when they produced 847 thousand tons of clinker (a preliminary stage of cement), a little over half their permitted operating capacity. They began to increase production with the improving economy, but this was limited due to concern over health impacts given the configuration of their emissions profile. After adoption of Regulation 9-13, under the terms of a compliance agreement with the Air District, Lehigh accepted a reduced production limit until they were able to complete modifications to their facility to increase dispersion of pollutants. Having completed these modifications, Lehigh has increased production in 2015 to 1.29 million tons of clinker, a little over three quarters of the permitted amount. Their Air District operating permit limits production of clinker to 1.6 million tons per year.

Prior to installing controls necessary to meet the standards of Regulation 9-13, Lehigh was the Bay Area's largest source of NO_x emissions without modern NO_x controls such as ultra-low NO_x burners, staged combustion, or add-on controls such as selective non-catalytic reduction. The plant has been in operation since 1939, and underwent major modifications in 1981, converting from a wet process to a dry process with a preheater/precalciner kiln. In anticipation of Federal regulatory amendments, Lehigh implemented control systems for TACs. Since adoption of Reg. 9-13, Lehigh has installed a NO_x emissions control system and constructed a 300-foot tall centralized emissions stack to obtain more representative monitoring results and reduce health effects through greater dispersion of pollutants.

Portland Cement Kiln Overview

Portland cement is a fundamental ingredient of concrete, consisting of calcium, silicon, aluminum, and iron. These materials are combined in a number of steps requiring careful control to ensure that the final product meets specific chemical and physical specifications required for building and construction needs. Figure 1 shows a schematic diagram of Portland cement manufacturing.

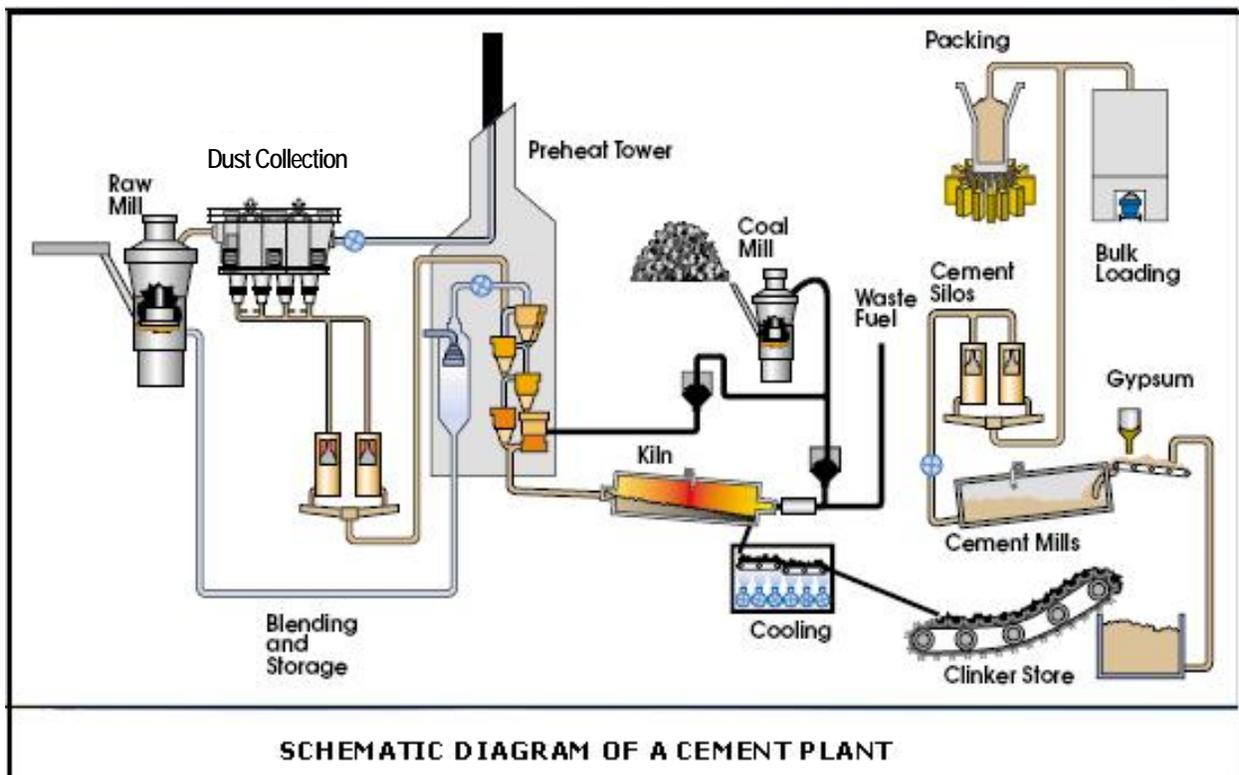
Manufacturing Steps

Portland cement manufacturing is a series of steps which take place at a large industrial facility usually located adjacent to a source of raw materials. Raw materials consist of limestone, shells or chalk, clay, sand, alumina and iron ore. The bulk of these are mined at a quarry, blended, and

ground to a powder. This blended material is subjected to intense heat in a kiln to cause a series of chemical reactions, transforming the powdered raw materials into something called cement clinker. Cement clinker consists of grayish-black pellets the size of marbles or golf balls, which is cooled, ground and mixed with gypsum and other additives to form powdered Portland cement.

In the initial manufacturing step, limestone is mined from a quarry near the plant. At the quarry, the material is reduced to a manageable size (from chair or desk size to softball size) by a two-stage primary crusher before stockpiling and transport to the kiln. The limestone is crushed for a third time and then pre-blended to homogenize the quality of the limestone. It is then mixed with bauxite (a source of alumina) and iron ore before being ground inside a ball mill and further blended to create the required proportions necessary for the desired end product.

Figure 1 – Schematic of Cement Manufacturing Process



In older cement manufacturing plants water is added to the raw materials to form a slurry, and grinding and mixing operations are completed in a slurry form. This aids in conveying the material, but the dry method is ultimately more energy efficient. The Lehigh facility converted from wet to dry process in 1981. In order to produce clinker, the material must be heated to at least 2400 degrees Fahrenheit and this is much easier when the raw materials are dry. At modern plants, the materials are preheated before entering the kiln and at many facilities the process of making cement is begun at this stage in a process called precalcining. A preheater/precalciner tower is utilized at the Lehigh facility to heat the material to approximately 1650 degrees F, and begin the cement manufacturing process prior to the material entering the rotary kiln.

At the heart of the manufacturing process is the cement kiln. The blended mixture of raw material is fed from the preheater/precalciner into the upper end of a tilted rotating cylindrical kiln where it will reach temperatures of 2400 to 3000 degrees F. This intense heat causes the material to fuse and undergo chemical reactions to create cement clinker. The clinker is discharged from the lower end of the kiln where it is cooled and then run through a roll press to reduce the clinker size. Some of this heat is recovered at this stage and routed to the preheater. The clinker is mixed with gypsum and ground one final time to make the final product.

Emissions from Portland Cement Manufacturing

The manufacturing of cement requires the movement and processing of many tons of material as well as the combustion of large amounts of fuel in order to heat that material to extremely high temperatures. Generally, emissions of concern from cement manufacture are criteria pollutants (NO_x, SO₂, PM, and VOCs) and toxic air contaminants (TACs) from combustion. Emissions of pollutants are directly attributable to both the fuel combustion and materials processing. The formation of NO_x during the manufacture of cement is due to the high temperature, oxidizing atmosphere necessary for clinker formation. Similar to NO_x, the formation of SO₂ is a product of the chemical make-up of the raw materials and fuel, as well as the high operating temperatures and oxygen concentration in the kiln. The production of SO₂ is more dependent on the sulfur content of fuel and raw materials however, whereas NO_x formation is more dependent on combustion conditions.

Emissions of TACs arise from the presence of these compounds predominantly in the raw materials and the fuel to fire the kiln. Predominant TACs emitted include mercury, hydrochloric acid (HCl), benzene, dioxins and furans, and dependent on the raw materials used, metals such as lead and hexavalent chrome. Particulate emissions arise from crushing, mixing and storage of raw materials, clinker production and cooling, finish grinding, packaging, and from vehicle traffic. For the most part, emissions of metallic TACs are limited at Lehigh due to relatively low levels in raw materials and fuel used at the plant, combined with the high level of control from fabric filtration systems in use at the plant. Mercury emissions are more significant than other metallic TACs due to relatively high mercury levels in the limestone quarried at the facility and because the metal is volatilized by the high temperatures of the kiln. Other TACs emitted from the kiln include hydrochloric acid (HCL), dioxins, furans, and benzene.

Federal Regulations

Two federal rules address air emissions from the manufacture of Portland cement: New Source Performance Standards (NSPS) and National Emission Standard for Hazardous Air Pollutants (NESHAP). EPA generally promulgates NSPS for specific industrial operations to address emissions of criteria pollutants from new, modified, and reconstructed sources. NESHAP addresses emissions of TACs (also known as hazardous air pollutants or HAPs) from both new and existing sources, and may have separate standards for each case.

On August 6, 2010, EPA issued amendments to both NSPS and NESHAP. These were then appealed directly to EPA, and further challenged in Federal Court. On July 18, 2012, as part of a settlement agreement, EPA revised its proposed emissions limits for PM and Organic HAPs, made changes to monitoring requirements, and extended the compliance date to September 10,

2015. The revised NESHAP significantly reduced hazardous (toxic) emissions from new and existing Portland cement kilns. Table 1 illustrates the NESHAP limits. The Lehigh facility has not been modified or reconstructed after the date of applicability specified in the regulation (June 6, 2008) and so is not subject to the emissions standards for new facilities.

Pollutant	Existing Facilities	New and Modified Facilities
Mercury	55 lbs/million tons of clinker, averaged over 30 days	21 lbs/million tons of clinker, averaged over 30 days
Dioxins/Furans	0.2 nanograms/dry standard cubic meter (ng/dscm)(TEQ)*, averaged over 24 hours	0.2 ng/dscm (TEQ)*, averaged over 24 hours
Total Hydrocarbons	24 parts per million by volume (ppmv), averaged over 30 days	24 ppmv, averaged over 30 days
Total Organic HAP*	12 ppmv, averaged over 30 days	12 ppmv, averaged over 30 days
Particulate Matter (PM)	0.07 lb/ton of clinker, averaged over 30 days	0.02 lb/ton of clinker, averaged over 30 days
Hydrochloric Acid (HCL)	3 ppmv, averaged over 30 days	3 ppmv, averaged over 30 days

**NOTES: Toxic Equivalent (TEQ) weighs the toxicity of less toxic compounds as fractions of the most toxic compound of the group. The Total Organic HAP standard is an alternative to the Total Hydrocarbon Standard.*

Air District Regulations

The Air District adopted Regulation 9-13 to achieve the maximum feasible, cost effective emissions reductions of NOx and PM in concert with efforts to bring the Lehigh facility into compliance with limits for TACs consistent with the federal NESHAP. As the effective date of the NESHAP requirements was unclear during the development of Regulation 9-13, the Air District incorporated these requirements into the rule. Regulation 9-13’s effective date of September 9, 2013 corresponds with that originally proposed for the 2010 amended NESHAP. The equipment and operational modifications necessary to meet the proposed NOx emission limit had the potential to result in excess ammonia emissions, and so an ammonia emissions limit was included in the rule. Significant modifications to the facility were implemented to reduce NOx and TAC emissions and to meet the enhanced monitoring requirements of the rule. Additional requirements of the rule addressed concerns over the configuration of the emission point from the kiln, and the need for enforceable fugitive dust control and mitigation measures.

In addition to Regulation 9-13, Portland cement manufacturing operations are subject to a number of Air District regulations that govern permitting (e.g., Regulation 2-1, 2-2), emissions of toxic or hazardous compounds (Reg. 2-5), and some general or miscellaneous regulations for

individual pollutants (Reg. 6-1 for PM, Reg. 8-2 for Volatile Organic Compounds (VOCs), Reg. 9-1 for SO₂, and Reg. 11-1 for lead). Requirements of all Air District rules are incorporated into the Title V permit for Lehigh along with the applicable federal requirements of the NESHAP and NSPS.

Issues Since Rule Adoption

Regulation 9-13 contains an ammonia standard to prevent excess emissions from control equipment installed to meet the NO_x standard in the rule. The Lehigh facility near Cupertino has a selective non-catalytic reduction (SNCR) system which injects ammonium to reduce NO_x and emissions limits are often imposed on such systems to prevent excess emissions (ammonia “slip”), typically limited to 10 ppmv above background. This is a simple matter for sources with steady state operating conditions, such as boilers, furnaces or turbines, but can be problematic for sources with highly variable operations such as cement kilns. The averaging period for the ammonia standard as it is currently stated in the rule is of insufficient duration to account for the variable background ammonia in the exhaust stream caused by the inherent variability of nitrate content in the local limestone feedstock used to make cement. Additionally, the regulated procedure for determining background ammonia levels is similarly problematic.

Air District staff recommends amending sections of the rule pertaining to the ammonia emissions (standard and baseline determination) to allow for replacement of the rolling 24-hour average with a rolling 182-operating day averaging period. In addition, staff recommends deletion of provisions for determining baseline levels and replacement with a fixed standard based on the last three years of operating data. Rule development efforts are underway to address health risk assessments and particulate matter more generally Air District-wide. Source testing, research, and evaluation of emissions control methods are ongoing and staff commits to develop further amendments to address condensable PM and SO₂ emissions and to review and confirm toxic emissions calculation methodologies and consider further measures to protect public health.

3.0 Technical Review

Ammonia Standard

The limestone used in the manufacture of cement is not purely calcium carbonate, but rather contains traces of other materials mixed into the rock including mercury, sulfur compounds, and nitrates. These occur in varying amounts in the limestone quarried in the lands surrounding the kiln on the Lehigh facility. As the limestone undergoes chemical reactions under the intense heat of the cement kiln, these impurities can lead to emissions of mercury, SO₂, and ammonia in similarly varying levels to that found in the feedstock. In the case of nitrates and subsequent ammonia emissions, the level of variability is greater than that anticipated during development of Regulation 9-13. Ammonia emissions are monitored at the facility by a continuous emissions monitoring system (CEMS) that records the ammonia concentration in the emissions train at regular intervals. Lehigh has recorded these monitoring results for the past five years. A review of this data shows that the variability of ammonia levels is consistent over the periods before and after installation of the SNCR system that injects additional ammonium into the kiln to reduce emissions of NO_x. The magnitude of this variability far exceeds the increase normally attributed to ammonia slip (10 ppmv), and the time scale far exceeds the 24-hour averaging time currently provided in the rule. It is clear from this data that the ammonia emissions are primarily driven by the nitrate content of the feedstock and not by the ammonium injection for the SNCR system.

In addition to being a precursor to secondary particulate formation, ammonia can potentially cause a nuisance due to its unpleasant odor. The concentration at which people detect ammonia can vary depending on how often one is exposed to the chemical, and so the odor threshold has been documented in various studies as low as 0.04 ppmv, and as high as 57 ppmv. The US Coast Guard Manual provides a value of 46.8 ppmv, the American Association of Railroads says most people can smell ammonia between 0.04 to 20 ppmv, and an odor threshold of between 5 and 50 ppmv is listed for ammonia by the Federal Occupational Safety and Health Administration (OSHA). Most organizations agree that most people can smell ammonia somewhere around 5 ppmv, but there is some evidence that people can lose their ability to detect ammonia after working around it for long periods.

More important than its potential to cause a nuisance, ammonia is a TAC with both acute and chronic effects. For non-carcinogenic compounds such as ammonia, toxicity is expressed as a Reference Exposure Level (REL) which is the air concentration at or below which exposure is unlikely to result in adverse health effects to even sensitive members of the general population through inhalation exposure. According to the California Office of Environmental Health Hazard Assessment (OEHHA), the chronic REL for ammonia is an annual average concentration of 0.3 ppmv, and the acute REL is 4.5 ppmv for an exposure time of one hour. Exposure to ammonia in concentrations above these RELs can cause irritation of the eyes, nose and upper respiratory tract, with coughing and difficulty breathing.

The Air District routinely uses air dispersion modeling to assess the health impacts of existing facilities. EPA's approved AERMOD model utilizes onsite and local meteorology data, surrounding terrain heights, takes into account variations in surface heating and friction from different land use applications near the site, along with emission rates, stack characteristics and downwind locations of individuals offsite. The results of this modeling provide the maximum

expected ambient concentration for a particular emission rate which is directly tied to stack concentration. The model is designed to be conservative in nature, meaning that it is more likely to over-predict exposures than under-predict them.

Air District staff conducted an air dispersion modeling analysis to evaluate the relationship between the concentration of ammonia in exhaust gasses from the Lehigh Cement Kiln and the potential health hazard at the maximally exposed offsite location. This potential health hazard is determined by the ambient air concentration of ammonia as compared to the RELs spoken of earlier. For a given stack concentration or emission rate, the model can be used to estimate the maximum one-hour average concentration at a given location for the acute REL, as well as the maximum annual average concentration for the chronic REL. Additionally, the model can be used to determine the likelihood that any offsite individual would detect an ammonia smell by comparing the highest one-hour average concentration to an accepted odor threshold value. A memo providing inputs and results of the air dispersion modeling is attached to this report as Appendix A.

Conversely, the air dispersion analysis results can be used to determine the maximum acceptable ammonia concentration in the kiln stack to prevent exceeding a given downwind ambient concentration value. This target downwind concentration can be assigned any value, be it acute or chronic REL, or any value within the range of odor detection threshold. The acute REL (4.5 ppmv) is just below the low end of odor threshold according to OSHA (5ppmv to 50 ppmv). Choosing a target of 0.5 ppmv (11% of the acute REL, and 10% of the lower bound of the OSHA odor threshold) would provide an extra level of safety to public health while allowing a reasonable cushion to prevent public nuisance. The Air District's dispersion modeling analysis shows that in order to prevent exceeding a 0.5 ppmv downwind one-hour average concentration, the maximum allowable kiln stack concentration is 270 ppmv. At this same maximum stack concentration, the Air District's modeling analysis shows that the maximum annual offsite ammonia concentration is 0.004 ppmv, which is 1.5 % of the chronic REL. The Air District believes that this limit is therefore sufficiently stringent to protect public health.

4.0 Regulatory Proposal

The Air District is considering amendments to Regulation 9-13 addressing inconsistencies with the ammonia limit in order to aid compliance and ensure federal enforceability through incorporation of the rule's standards into Lehigh's Title V operating permit. As currently written, beginning 90 days from adoption, the rule proscribes monitoring of ammonia concentrations in the exhaust stream of the kiln to determine a baseline average (section 9-13-402). The rule provides a methodology (section 9-13-610) to determine that average concentration over a period of no less than 6 months immediately prior to the installation of control equipment to meet the NOx standard (section 9-13-301.1). Ammonia concentrations are limited to that 6-month baseline average concentration plus 10 ppmv, but the averaging period for the standard is a rolling 24 hours (section 9-13-301.4).

Air District staff proposes to increase the averaging period to a 182-operating day rolling average in order to reconcile it with the originally proposed 6-month background period. This longer averaging period will allow for short term variations in ammonia concentrations. Air District staff proposes to amend the ammonia standard in section 9-13-301.4 to a set value of 270 ppmv averaged over a rolling 182 operating day period. Based on monitoring data required by Regulation 9-13, ammonia concentrations in Lehigh's kiln stack have never exceeded the 270 ppmv threshold. The Air District therefore believes that this standard is sufficiently stringent to ensure that ambient ammonia concentrations at downwind locations will not cause adverse health effects, and are unlikely to exceed odor detection thresholds. Proposed amendments to rule language are detailed below with specific changes provided in strikethrough/underline format.

182-Operating Day Rolling Average Definition

A new definition has been added to accommodate the 6-month averaging period for the revised ammonia standard. To allow for a rolling daily average, 6 months becomes 182 days, and only operating days (as defined in section 9-13-211) are counted to exclude periods during which the kiln is either down or in start-up (defined in section 9-13-215) or shutdown mode (section 9-13-214).

9-13-220 182-Operating Day Rolling Average: The arithmetic mean of the emissions as prescribed in sections 9-13-301 of the most recent 182 operating days. Each operating day initiates a new rolling average period.

Ammonia Emission Limit

The averaging period for the standard is revised from a 24-hour rolling average to a 182-operating day rolling average, and the standard is proposed as a set value of 270 ppmv rather than 10 ppmv over a calculated baseline.

9-13-301 **Emission Limits:** Effective September 9, 2013, no person shall operate a Portland cement manufacturing facility unless the following emission limits are met:
301.1 The 30-operating day rolling average of nitrogen oxides (NOx) emissions from the kiln shall not exceed 2.3 pounds per ton of clinker produced;

- 301.2 Particulate matter (PM) emissions from the kiln shall not exceed 0.04 pounds per ton of clinker produced, based on a three run test average;
- 301.3 PM emissions from the clinker cooler shall not exceed 0.04 pounds per ton of clinker produced, based on a three run test average;
- 301.4 The ~~24-hour~~182-operating day rolling average of ammonia (NH₃) emissions from the kiln shall not exceed ~~baseline emission levels by more than 10~~270 ppmv, dry at 7 percent oxygen;
- 301.5 The 24-hour rolling average dioxins and furans (D/F) emissions from the kiln shall not exceed 0.2 ng-TEQ/dscm at 7 percent oxygen;
- 301.6 The 30-operating day rolling average of mercury emissions from the kiln shall not exceed 55 pounds per million tons of clinker produced;
- 301.7 The 30-operating day rolling average of total hydrocarbon (THC) emissions from the kiln shall not exceed 24 ppmv, dry at 7 percent oxygen; or as an alternative, provided the provisions of Section 9-13-403 have been completed, the 30-operating day rolling average of total organic HAP emissions from the kiln shall not exceed 12 ppmv, dry at 7 percent oxygen;
- 301.8 The 30-operating day rolling average hydrogen chloride (HCl) emissions from the kiln shall not exceed 3 ppmv, dry at 7 percent oxygen.

Baseline Ammonia Emission Level Determination and Methodology

The baseline period has passed, and the emission limit is provided as a set value. These sections are no longer necessary and so are deleted.

~~**9-13-402 Baseline Ammonia Emission Level Determination:** No later than 90 operating days after rule adoption, any person manufacturing Portland cement shall begin monitoring ammonia emissions from the kiln for the purpose of establishing a baseline emission level for kiln operations prior to the installation and subsequent operation of NOx control equipment. Monitoring shall be conducted according to Section 9-13-501, and determination of the baseline ammonia emission level shall be calculated as specified in regulation 9-13-610.~~

~~**9-13-610 Baseline Ammonia Emission Level Calculation:** The following methodology shall be used to calculate baseline ammonia emissions in order to determine compliance with Section 9-13-301.4:~~

- ~~610.1 The baseline period consists of the period immediately preceding the initial operation of control equipment installed to comply with Section 9-13-301.1. The baseline period shall not be less than 6 months in duration. The owner or operator of the Portland cement manufacturing facility shall have sufficient records of the kiln's operation to substantiate the emission rate during the baseline period.~~
- ~~610.2 Baseline emission level, expressed in ppmv, dry at 7 percent oxygen, is the median of the 6 monthly average values of the ammonia (NH₃) emissions from the kiln.~~

5.0 Emissions

The proposed amendments will not result in changes in emissions. Ammonia emissions are driven more by feedstock variations than by ammonium injection as part of SNCR. The amended limit protects public health and guards against nuisance conditions while providing insurance against excess ammonium injection with a sufficient buffer for normal feedstock variations.

6.0 Economic Impacts

Cost of Controls

There are no anticipated costs associated with these amendments.

Socioeconomic Analysis

Section 40728.5 of the California Health and Safety Code requires an air district to assess the socioeconomic impacts of the adoption, amendment or repeal of a rule if the rule is one that “will significantly affect air quality or emissions limitations.” As noted above, there are no anticipated costs associated with these proposed amendments and so they would not have a significant economic impact to the affected industry. BAE Urban Economics of Emeryville, California has completed an updated socioeconomic analysis with an updated economic profile of the industry affected by the rule. Their analysis is attached as Appendix B to this report.

7.0 Environmental Impacts

California Environmental Quality Act

Pursuant to the California Environmental Quality Act (CEQA), the Air District has concluded that the proposed amendments to Regulation 9-13 are exempt under CEQA guidelines Section 15301, Class 1. The rule amendment would involve negligible or no expansion of an existing use. The proposed change to the averaging period will merely effectuate the original intent of the rule. Actual emissions will not increase. Likewise, changing the baseline methodology will not affect emissions. Air District Staff will file a Notice of Exemption with the County Clerk after adoption by the Board of Directors.

8.0 Regulatory Impacts

Section 40727.2 of the Health and Safety Code requires an air district, in adopting, amending, or repealing an air district regulation, to identify existing federal and district air pollution control requirements for the equipment or source type affected by the proposed change in air district rules. The air district must then note any difference between these existing requirements and the requirements imposed by the proposed change.

As stated in the Background section of this report, there are two federal rules which govern air emissions from the manufacture of Portland cement. The NSPS provides emissions standards for NO_x, SO₂, and PM from new or modified Portland cement kilns and the NESHAP provides emissions standards for TACs from all Portland cement kilns with one set of standards for existing kilns, and one for new or modified kilns. The kiln at Lehigh has not undergone sufficient modification to be deemed new or modified after the effective dates of either rule, so is subject to only the existing source emissions standards contained in the NESHAP. All of these standards for TACs are included in the District's proposed rule. The proposed rule amendments are unlikely to result in any increase in emissions of ammonia and will have no effect on other emissions standards contained in the rule.

There are currently no State rules that specifically regulate cement manufacture, other than greenhouse gas emissions cap and trade (AB 32), and those rules governing the use of scrap tires as fuel. Several air districts (Antelope Valley, Amador, Kern, Mojave, and Monterey Bay Unified) with cement kilns operating within their jurisdiction have adopted regulations to address emissions of NO_x and/or PM from these sources. South Coast Air Quality Management District has adopted several cement manufacturing regulations addressing emissions of NO_x, PM, CO, as well as hexavalent chromium and fugitive dust. At least two of these regulations were adopted to address specific conditions at individual cement manufacturing facilities. These regulations are different in format, and include provisions tailored to the facilities in their jurisdiction. Air District staff believes that the current rule is no less stringent than any of the regulations governing cement manufacture from other air district in California, and is more stringent in terms of actual emissions standards for NO_x, and TACs. The proposed amendments will not make the rule any less stringent in comparison to other air district rules in California.

9.0 Rule Development Process

In advance of proposing amendments to Regulation 9-13, rule development staff consulted internally with Air District staff, met with representatives of the affected facility, and held community stakeholder meetings in Cupertino to address concerns of community members and local elected officials. Internal meetings were initiated shortly after the rule became effective when monitoring data showed the full extent of the variability of ammonia concentrations in the emissions train and it became clear that the methodology for determining the ammonia baseline would likely result in an unattainable standard. Staff from the Engineering, Compliance and Enforcement, and Legal Divisions worked initially to develop a compliance agreement, and later determined that amending the rule was the best way forward. Representatives from Lehigh engaged staff in this effort as different proposals were explored. As a regulatory solution began to take shape, the Air District reached out to the affected community to discuss the ammonia standard as well as solicit community engagement on other concerns such as emissions of TAC, PM and SO₂ from the facility.

On March 10th of this year, Air District staff held a public stakeholders meeting in Cupertino to discuss the approach of first correcting the ammonia standard to facilitate incorporation of the rule requirements into the facility's federal operating permit, backed up by a commitment to address particulate and SO₂ emissions in the future. Members of the public included two Cupertino City Council Members, along with representatives of several environmental and health advocacy groups, including the Sierra Club, Breathe California, Bay Area for Clean Environment, and Quarry No. Members of the public expressed concerns about the health impacts due to emissions from Lehigh and conveyed doubts in the Air District's ability to evaluate these impacts. Some attendees expressed the belief that ammonia emissions were driving the health risk and that by adjusting the standard the Air District would be giving Lehigh a pass to cause greater health impacts. Air District staff provided data to assuage these concerns, while emphasizing the importance of the current goal to make Regulation 9-13 requirements part of the facility's Title V permit and committed to continue the process towards reducing health impacts through future rule development.

A second stakeholders meeting was held on May 16th, again in Cupertino with most of the same interested community members. Air District staff provided greater detail as to reasons behind the proposed amendments, explaining the fluctuations of ammonia levels and the need for consistent averaging periods. Staff further explained the relatively low potential health risk posed by ammonia, and detailed the larger scale rule development effort to address toxic health impacts. Additionally, rule development staff working on general particulate matter regulations provided an update on those efforts and how they would affect emissions at Lehigh. Members of the public expressed guarded acceptance of the Air Districts approach as long as sufficient documentation and analysis were provided in any proposal. The Air District committed to provide that analysis as may be found in this report, and to continue to evaluate avenues for further emissions reductions where achievable.

The Air District plans to hold a stakeholders meeting in the fall to discuss any continuing concerns regarding the proposal, and to provide a status update for the anticipated further rule development efforts.

10.0 Conclusion

Pursuant to Section 40727 of the California Health and Safety Code, the proposed rule amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference before the Board of Directors adopt, amend, or repeal a rule. The proposed amended Rule is:

- Necessary to protect public health by ensuring reduction in toxic air contaminants to nearby residents and by reducing ozone and PM precursors to meet the commitment of Control Measure SSM-9 of the Bay Area 2010 Clean Air Plan;
- Authorized by California Health and Safety Code Sections 40000, 40001, 40702, and 40725 through 40728;
- Clear, in that the rule specifically delineates the affected industry, compliance options, and administrative requirements for industry subject to this rule, so that its meaning can be easily understood by the persons directly affected by it;
- Consistent with other California air district rules, and not in conflict with state or federal law;
- Non-duplicative of other statutes, rules, or regulations; and,
- Implementing, interpreting and making specific and the provisions of the California Health and Safety sections 40000 and 40702.

A socioeconomic analysis prepared by Bay Area Economics has found that the proposed rule amendments would not have a significant economic impact or cause regional job loss. A California Environmental Quality Act (CEQA) analysis prepared by Environmental Audit, Inc., concludes that the proposed amendments are exempt under CEQA Guidelines Section 15301, Class 1. Air District staff have reviewed and accepted this analysis and will file a Notice of Exemption after amendments are adopted by the Board of Directors.

11.0 References

1. Bay Area Air Quality Management District; *Bay Area 2010 Clean Air Plan*, “SSM 9 – Cement Kilns”, Volume 2, September 15, 2010.
2. Portland Cement Association; *Cement Industry Overview, Economics of the U.S Cement Industry*, May 2013; www.cement.org
3. US EPA; *National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants*; Federal Register / Vol. 75, No. 174 / September 9, 2010.
4. US EPA; *FACT SHEET for Final Amendments to National Air Toxics Emission Standards and New Source Performance Standards for Portland Cement Manufacturing*; August 9, 2010.
5. US EPA, Office of Air Quality Planning and Standards; *Regulatory Impact Analysis: Amendments to the National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards (NSPS) for the Portland Cement Manufacturing Industry Final Report*; August 2010
6. US EPA; *National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants; 40 CFR Parts 60 and 63*[EPA-HQ-OAR-2011-0817; FRL-9629-9] RIN 2060-AQ93; June 25, 2012.
7. US EPA; *Proposed Amendments to Air Toxics Standards and New Source Performance Standards for Portland Cement Manufacturing FACT SHEET*; June 25, 2012.
8. US Department of Health and Human Services, National Institute for Occupational Safety and Health; US Department of Labor, Occupational Safety and Health Administration; *Occupational Safety and Health Guideline for Ammonia*; 1992; <http://www.cdc.gov/niosh/docs/81-123/pdfs/0028-rev.pdf>
9. California Office of Environmental Health Hazard Assessment; *Acute, 8-hour and Chronic Reference Exposure Level (REL) Summary*; June 28, 2016; <http://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary>

INTEROFFICE MEMORANDUM

July 11, 2016

TO: Eric Stevenson *ES*
VIA: Jaime Williams *JW*
Sanjeev Kamboj *SK*

FROM: Ted Hull *TH*

SUBJECT: Evaluation of Ammonia Level of Significance from the Kiln at Lehigh Southwest Cement

SUMMARY: Per your request, I have used dispersion modeling to evaluate the concentration of ammonia in the exhaust gases from the Lehigh Cement Kiln that would result in a potential health hazard at the maximally exposed offsite receptor location. I have determined that the maximum acceptable ammonia (NH₃) concentration from the kiln stack is **2,432 ppm vol. (@ 20°C)**. This value coincides with the modeled offsite receptor point at which the Acute Reference Exposure Level (REL)* for ammonia (3,200 ug/m³) is first reached for a 1-hour averaging period; i.e. the point of maximum impact (PMI). At this same maximum stack concentration, the maximum annual average offsite ammonia concentration is 28 ug/m³. This is 14% of the Chronic REL (200 ug/m³).

* Inhalation RELs are air concentrations or doses at or below which adverse health effects are not expected even in sensitive members of the general population under specified exposure scenarios. The acute RELs are for infrequent 1 hour exposures that occur no more than once every two weeks in a given year. The chronic RELs are for 24 hour per day exposures for at least a significant fraction of a lifetime, defined as about 8 years (≥ 2 percent of a 70year lifespan).

EMISSIONS: The maximum ammonia emission rate used in the model was 351.1 grams per second. This corresponds to the maximum acceptable stack concentration (2,432 ppm vol.) at the following typical kiln stack conditions:

- Kiln Flow Rate = 298.2 m³/s @ 428.7 °K; converted to 203.81 m³/s @ standard conditions (20°C)
- NH₃ stack concentration = 1.723 E+06 ug/m³ (micrograms per cubic meter) @ 20°C; equivalent to 2,432 ppm vol. @ 20°C

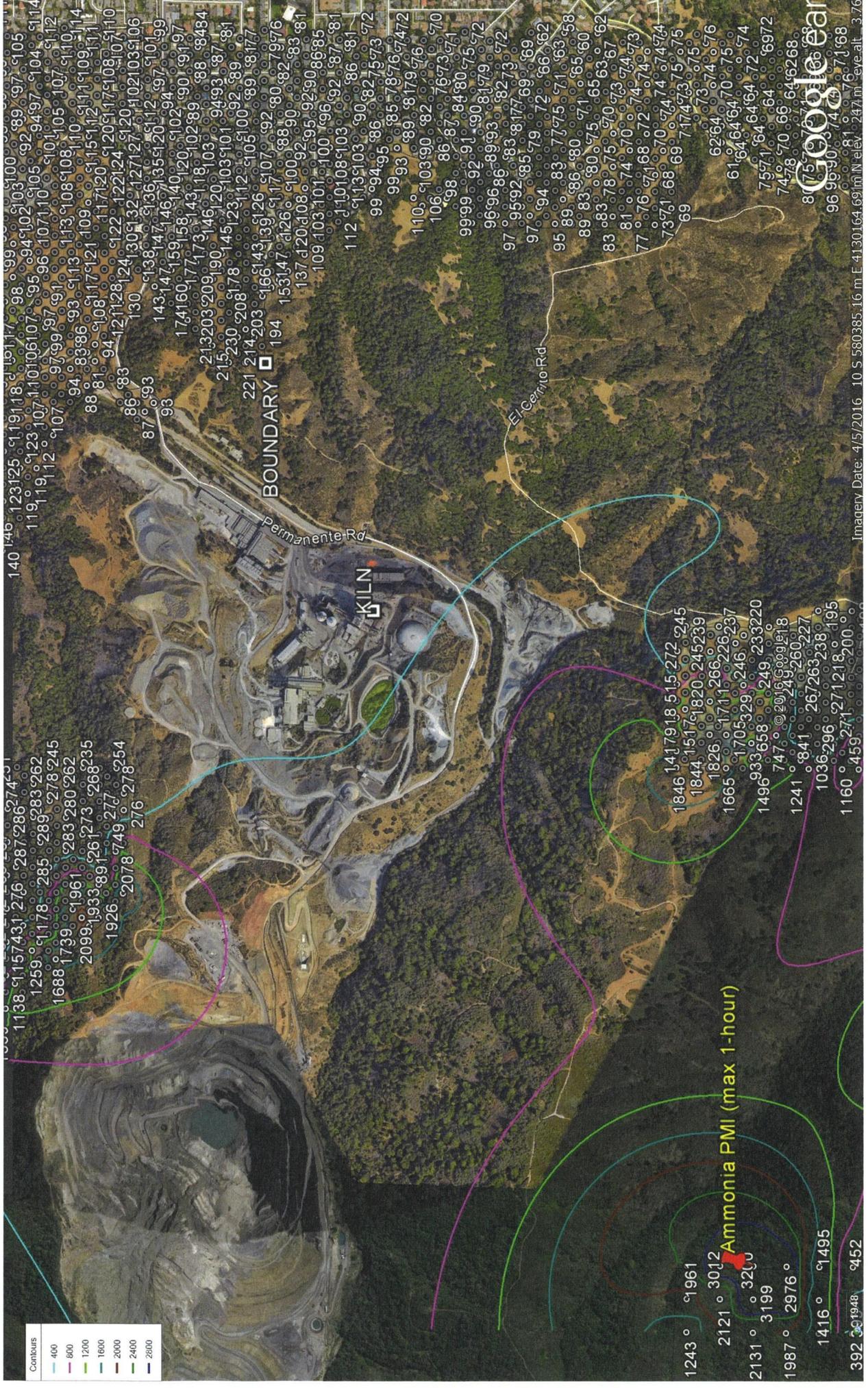
The following constant values were used in unit conversions:

- Molar volume of gas at 1 atm and 20°C = 24.04 liters/mole
- Molecular Weight of NH₃ = 17.03 g/mole

MODELING: The AERMOD air dispersion computer model (version 15181) was used to estimate maximum 1-hour and annual average ambient air concentrations. The model was run with 1 year on-site meteorological data. Upper air data for the same time period was taken from the Oakland International Airport station. The model is referenced in NAD 83 UTM coordinates and uses terrain data from Santa Clara County 10m NED files.

I have attached a plot of the results for modeled 1-hour maximum ammonia emissions.

CONCLUSION: Kiln stack ammonia emissions from Lehigh Southwest Cement do not present offsite health hazards at stack concentrations below 2,432 ppm vol. (@ 20°C).



Contours	
400	Blue
600	Green
1200	Yellow
1600	Orange
2000	Red
2400	Purple
2600	Dark Purple

Ammonia PMI (max 1-hour)

Google

Imagery Date: 4/5/2016 10 S 580385.16 m E 4130164.69 m N Elev. 247 m eye alt. 3.76

Socio-Economic Impact Study of the Proposed 2016 Changes to BAAQMD
Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter,
and Toxic Air Contaminants from Portland Cement Manufacturing

Submitted to: Bay Area Air Quality Management District
July, 2016



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DESCRIPTION OF PROPOSED RULE

Regulation 9, Rule 13 contains an ammonia standard to prevent excess emissions from control equipment installed to meet the NO_x standard in the rule. Due to issues related to problems with the short averaging period for ammonia emissions related to inherent variability of nitrate content in the limestone feedstock used to make cement at the Lehigh Southwest Cement Plant (the “Lehigh facility”) located in unincorporated Santa Clara County west of Cupertino, Air District Staff recommends amending sections of the rule pertaining to the ammonia emissions (standard and baseline determination) to allow for replacement of the rolling 24-hour average with a rolling 182-operating day averaging period. In addition, Staff recommends deletion of provisions for determining baseline levels and replacement with a fixed standard based on the last three years of operating data. The Lehigh facility is the only cement manufacturing facility in the Air District, and is thus the only facility to be impacted by this Rule revision.

METHODOLOGY

The analysis begins with an overview of current demographic and economic conditions in the Air District region, to provide context for the impact analysis that follows. Following that overview, BAE provides more detail on the specific industry, and in the case of this rule revision, the single location, that may be affected by the rule revisions, including data on number of establishments as classified by number of employees, estimated revenues per employee, and net profits for the affected industry.

This report uses data from a number of sources, including County Business Patterns, the 2012 Economic Census, the US Bureau of Labor Statistics, the State of California’s Employment Development Department (EDD) Labor Market Information Division and Department of Finance, the Internal Revenue Service, and the Air District itself.

Using this information, BAE generated an overview of regional demographic and economic trends, developed a profile of the potentially impacted business establishment, and estimated net income as percent of revenues. These figures were then compared to the compliance costs associated with the revised Rule, and determined the potential for these costs to be a significant portion of estimated profits (using a 10 percent impact threshold). Then, if impacts on profit could result in job losses, BAE analyzed the direct and indirect job losses using the IMPLAN input-output model. Finally, the potential for impacts on small businesses is assessed.

REGIONAL TRENDS

Regional Demographic Trends

~~Table 1~~ **Table 1** shows the population and household trends for the nine county Bay Area and California between 2000 and 2015. During this time, the Bay Area’s population increased by 10.7 percent, compared to 14.3 percent for California as a whole. Similarly, the number of Bay Area households grew by 8.5 percent, compared to 11.5 percent growth statewide, as average household size increased in both geographies.

Table 1: Population and Household Trends, 2000-2015

Bay Area (a)	2000	2015	Total Change 2000-2015	% Change 2000-2015
Population	6,784,348	7,510,942	726,594	10.7%
Households	2,466,020	2,675,537	209,517	8.5%
Average Household Size	2.69	2.75		
California				
Population	33,873,086	38,714,725	4,841,639	14.3%
Households	11,502,871	12,830,035	1,327,164	11.5%
Average Household Size	2.87	2.95		

Notes:

(a) Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: California State Department of Finance, 2015; US Census, 2000; BAE 2015.

The Bay Area’s slower growth is tied to its relatively built-out environment, compared to the state overall. While Central Valley locations, such as the Sacramento region, experienced large increases in the number of housing units, the Bay Area only experienced moderate increases in housing units.

Regional Economic Trends

[Table 2](#) shows jobs by sector in 2010 and 2015¹ for the Bay Area and California. In the five-year period between 2010 and 2015, the Bay Area's employment base grew by 17.5 percent, increasing from 3.2 million jobs to 3.7 million jobs, as the area economy has recovered from the depths of the Great Recession and continued to grow. The state saw somewhat smaller job growth, increasing by 12.3 percent from 14.7 million jobs in 2010 to 16.5 million jobs in 2015.

The largest non-government sectors in the Bay Area economy are Professional & Business Services; Education & Health Services; Leisure & Hospitality; and Retail Trade. These sectors each constituted nine percent or more of the region's total jobs in 2015. Overall, the Bay Area's economic base largely reflects the state's base, sharing a similar distribution of employment across sectors. One noteworthy variation is the high regional employment in the Professional & Business Services, which makes up 19.2 percent of employment in the Bay Area compared to only 15.1 percent statewide.

All industry sectors showed an increase in employment in the Bay Area between 2010 and 2015, with increases of greater than 20 percent in Mining, Logging, & Construction; Information; Professional & Business Services; and Leisure & Hospitality. Statewide growth was also over 20 percent in three of these four sectors; Information only grew by 12.6 percent, compared to 44.4 percent in the Bay Area, where the tech economy is driving growth. For both the Bay Area and the state, the slowest growth was in the Government sector.

Production at the Lehigh facility has tracked with national economic trends as demand for cement for construction has ebbed and flowed. Lehigh steadily decreased production from 2006 until 2010, a period where the facility produced 847,000 tons of clinker in total, a little over half their permitted operating capacity. Production increased with the improving economy, but this was limited due to concern over health impacts given the configuration of their emissions profile. Following the adoption of Regulation 9-13, Lehigh reduced production until they were able to complete modifications to their facility to increase dispersion of pollutants. Having completed these modifications, Lehigh increased production in 2015 to 1.29 million tons of clinker, slightly above three quarters of the permitted amount.

¹ Most recent year for which full-year employment data are available.

Table 2: Jobs by Sector, 2010-2015 (a)

Industry Sector	Bay Area					California				
	2010 (b)		2015 (c)		% Change 2010-2015	2010 (b)		2015 (c)		% Change 2010-2015
	Jobs	% Total	Jobs	% Total		Jobs	% Total	Jobs	% Total	
Agriculture	20,900	0.7%	21,800	0.6%	4.3%	382,800	2.6%	423,300	2.6%	10.6%
Mining, Logging, and Construction	132,600	4.2%	179,800	4.8%	35.6%	586,700	4.0%	756,400	4.6%	28.9%
Manufacturing	307,500	9.7%	333,600	9.0%	8.5%	1,244,000	8.5%	1,291,900	7.8%	3.9%
Wholesale Trade	113,200	3.6%	127,800	3.4%	12.9%	644,000	4.4%	721,200	4.4%	12.0%
Retail Trade	309,700	9.8%	345,700	9.3%	11.6%	1,517,700	10.3%	1,663,100	10.1%	9.6%
Transportation, Warehousing, and Utilities	89,500	2.8%	106,200	2.9%	18.7%	466,300	3.2%	554,000	3.4%	18.8%
Information	113,500	3.6%	163,900	4.4%	44.4%	429,000	2.9%	483,000	2.9%	12.6%
Financial Activities	168,400	5.3%	180,100	4.8%	6.9%	759,700	5.2%	797,400	4.8%	5.0%
Professional & Business Services	546,500	17.3%	716,100	19.2%	31.0%	2,076,900	14.2%	2,493,800	15.1%	20.1%
Educational & Health Services	474,500	15.0%	552,300	14.8%	16.4%	2,123,400	14.5%	2,456,200	14.9%	15.7%
Leisure & Hospitality	325,900	10.3%	405,100	10.9%	24.3%	1,501,600	10.2%	1,830,000	11.1%	21.9%
Other Services, except Public Administration	108,500	3.4%	123,600	3.3%	13.9%	484,900	3.3%	545,700	3.3%	12.5%
Government (d)	458,200	14.5%	468,100	12.6%	2.2%	2,448,400	16.7%	2,458,800	14.9%	0.4%
Total, All Employment (e)	3,168,000	100.0%	3,723,800	100.0%	17.5%	14,665,300	100.0%	16,474,800	100.0%	12.3%

Notes:

(a) Includes all wage and salary employment.

(b) Represents annual average employment for calendar year 2010.

(c) Represents annual average employment for calendar year 2015.

(d) Government employment includes workers in all local, state and Federal workers, not just those in public administration. For example, all public school staff are in the Government category.

(e) Totals may not sum from parts due to independent rounding.

(f) Santa Clara County data is for MSA, which includes San Benito County. As of 2014, San Benito had approximately 16,100 wage and salary jobs, an insignificant number relative to the Bay Area total.

Sources: California Employment Development Department, 2016; BAE, 2016.

SOCIO-ECONOMIC IMPACTS

This section discusses the methodology for this analysis, as well as the economic profile of the affected industry, and annualized rule compliance costs associated with revising Rule 9-13. It then determines whether the annualized compliance costs would significantly burden the affected industry, and estimates adoption of the rule's regional economic impacts.

Methodology

In order to estimate the economic impacts of adopting Rule 9-13 on the Portland cement manufacturing industry, this report compares the affected industry's annualized compliance costs with its profit ratios. The analysis uses data from the BAAQMD, 2014 US Census County Business Patterns, the 2004-2014 Annual Survey of Manufacturers, and 2003-2012 IRS corporate income returns data.

Economic Profile of Affected Industry

The proposed rule would affect Portland cement manufacturers, which are included in the Cement Manufacturing sector (NAICS Code 327310). According to the US Census, in 2014, the Bay Area had four cement manufacturing establishments that accounted for an estimated 246 jobs. Dividing the total jobs by the number of establishment shows that on average, each establishment employed 62 workers. However, BAAQMD staff indicated that there is only one Portland cement plant in the Bay Area, Lehigh, that would be subject to the proposed rule. According to the operators, the Bay Area Lehigh plant employs 130 workers.

Since the NAICS sector has a broader definition of firms than the proposed rule, Census data includes additional cement manufacturing establishments that would not be subject to Rule 9-13. Lehigh is represented as the firm with over 100 employees. Table 3 shows the profile of the affected industry.

Table 3: Profile of Affected Industry, 2014

Industry	Cement Manufacturing (a)
Employment (b)	246
Average Employment per Establishment	62
Number of Establishments (by workforce size)	
1-4	1
5-9	0
10-19	0
20-49	2
50-99	0
100 to 249	1
Total	4 (c)

Notes:

- (a) The Portland Cement Manufacturing industry is defined as NAICS 327310, Cement Manufacturing.
- (b) In cases where the actual employment number is not disclosed for confidentiality purposes, the analysis uses the midpoint employment number for each size cohort.
- (c) BAAQMD estimates that the Bay Area has one establishment in this sector will be affected by the proposed Rule.

Sources: U.S. Census County Business Patterns, 2014; BAE, 2016.

As shown in Table 4, according to 2004-2014 US Annual Survey of Manufactures data, the firms in the Cement Manufacturing sector have average annual sales per employee of approximately \$798,266.² Multiplying the average revenues per employee by the number of Lehigh employees (130 workers) shows that on average, Lehigh's establishment has estimated total annual revenues of approximately \$104 million. Table 4 shows the affected industry's annual employment and sales data.

² Data presented in 2015 dollars, adjusted using the Producer Price Index for Cement.

Table 4: Portland Cement Manufacturing Industry, Sales

<u>Number of Employees</u>	<u>Number of Establishments (a)</u>	<u>Average # of Employees (b)</u>	<u>Average Annual Sales (c)</u>	<u>Total Sales</u>	<u>Total Employees</u>
1-4	0	0	\$0	\$0	0
5-9	0	0	\$0	\$0	0
10-19	0	0	\$0	\$0	0
20-49	0	0	\$0	\$0	0
50-99	0	0	\$0	\$0	0
<u>100+</u>	<u>1</u>	<u>130</u>	<u>\$103,774,517</u>	<u>\$103,774,517</u>	<u>130</u>
Total	1	130	\$103,774,517	\$103,774,517	130

Notes:

(a) The number and sizes of businesses affected for each industry comes from BAAQMD data.

(b) Per BAAQMD staff.

(c) Based on 2004-2014 Annual Survey of Manufactures data for cement manufacturing businesses in the United States. 327310, Cement Manufacturing. Reported in 2015 dollars.

Average revenues per employee \$798,266

Sources: Annual Survey of Manufactures, 2004-2014; BAAQMD, 2016; BLS Producer Price Index; BAE, 2016.

The IRS provides data on total sales and net income for the Cement, Concrete, Lime, and Gypsum Product Manufacturing sector. According to the most recently available IRS data, between 2003 and 2012 cement manufacturing firms averaged a 4.7 percent rate of return on total sales. As [Table 5](#) shows, during an average year the Lehigh plant would generate estimated net profits of approximately \$4.8 million.

Table 5: Cement Manufacturing Industry Profits

<u>Number of Employees</u>	<u>Number of Establishments</u>	<u>Average Annual Sales (a)</u>	<u>Average Return on Sales (b)</u>	<u>Average Profits</u>	<u>Total Profits</u>
1-4	0	\$0	4.7%	\$0	\$0
5-9	0	\$0	4.7%	\$0	\$0
10-19	0	\$0	4.7%	\$0	\$0
20-49	0	\$0	4.7%	\$0	\$0
50-99	0	\$0	4.7%	\$0	\$0
<u>100+</u>	<u>1</u>	<u>\$103,774,517</u>	<u>4.7%</u>	<u>\$4,844,500</u>	<u>\$4,844,500</u>
Total	1	\$103,774,517	4.7%	\$4,844,500	\$4,844,500

Notes:

(a) See previous table for derivation of this estimate.

(b) Based on 2003-2012 IRS data for Corporation Income Tax Returns: Returns of Active Corporations, Table 1.

Sources: Annual Survey of Manufactures, 2004-2014; BLS Producer Price Index; IRS, 2003-2012; BAE, 2016.

Description of Compliance Costs

According to Air District staff, there are no additional compliance costs anticipated due to the change in how ammonia emissions compliance is measured.

Affected Industry Economic Impact Analysis

As there are no costs involved, there will be no effect on profits, and thus no socio-economic impacts related to implementation of the proposed Rule revision.

Ability to Pass Through Costs

There are no costs to pass through so the 10 percent profit impact threshold is not relevant for this proposed Rule revision.

Affected Industry and Regional Employment Impacts

Since there are no direct impacts on employment or revenues for the Lehigh facility, the only site affected by the proposed Rule revision, there will be no additional indirect regional employment impacts.

IMPACT ON SMALL BUSINESSES

According to California Government Code 14835, a small business is any business that meets the following requirements:

- Must be independently owned and operated;
- Cannot be dominant in its field of operation;
- Must have its principal office located in California;
- Must have its owners (or officers in the case of a corporation) domiciled in California; and
- Together with its affiliates, be either:
 - A business with 100 or fewer employees, and an average annual gross receipts of \$10 million or less over the previous three tax years, or
 - A manufacturer with 100 or fewer employees.

Based on these criteria, Lehigh (the only facility impacted) does not qualify as a small business. Since the proposed rule would not affect any other businesses, it would not place a disproportionate burden on small businesses.