



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

December 20, 2010

CERTIFIED MAIL

Mr. Jeffrey Halliday
Terminal Manager/FSO
Providence Terminals
Lehigh Northeast Cement Company
55 Fields Point Drive
Providence, RI 02905

**RE: Lehigh Northeast Cement Company, 25 Terminal Road, Providence, RI
RIPDES No. RI0001643**

Dear Mr. Halliday:

Enclosed is your final Rhode Island Pollutant Discharge Elimination System (RIPDES) Permit issued pursuant to the referenced application. State regulations, promulgated under Chapter 46-12 of the Rhode Island General Laws of 1956, as amended, require this permit to become effective on the date specified in the permit.

Also enclosed is information relative to hearing requests and stays of RIPDES Permits.

We appreciate your cooperation throughout the development of this permit. Should you have any questions concerning this permit, feel free to contact Brian Lafaille, P.E. of the State Permits Staff at (401) 222-4700, extension 7731.

Sincerely,

Eric A. Beck, P.E.
Supervising Sanitary Engineer

EAB:

Enclosures

cc: Traci Pena, RIDEM-OWR (electronic copy via email)
Annie McFarland, RIDEM-OWR (electronic copy via email)

RESPONSE TO COMMENTS

NO SIGNIFICANT COMMENTS WERE RECEIVED ON THE DRAFT PERMIT FOR THIS FACILITY; THEREFORE, NO RESPONSE WAS PREPARED.

HEARING REQUESTS

If you wish to contest any of the provisions of this permit, you may request a formal hearing within thirty (30) days of receipt of this letter. The request should be submitted to the Administrative Adjudication Division at the following address:

Bonnie Stewart, Clerk
Department of Environmental Management
Office of Administrative Adjudication
235 Promenade Street, 3rd Floor
Providence, Rhode Island 02908

Any request for a formal hearing must conform to the requirements of Rule 49 of the State Regulations.

STAYS OF RIPDES PERMITS

Should the Department receive and grant a request for a formal hearing, the contested conditions of the permit will not automatically be stayed. However, the permittee, in accordance with Rule 50, may request a temporary stay for the duration of adjudicatory hearing proceedings. Requests for stays of permit conditions should be submitted to the Office of Water Resources at the following address:

Angelo S. Liberti, P.E.
Chief of surface Water Protection
Office of Water Resources
235 Promenade Street
Providence, Rhode Island 02908

All uncontested conditions of the permit will be effective and enforceable in accordance with the provisions of Rule 49.

AUTHORIZATION TO DISCHARGE UNDER THE
RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of Chapter 46-12 of the Rhode Island General Laws, as amended,

Lehigh Northeast Cement Company
55 Fields Point Drive
Providence, Rhode Island 02905

is authorized to discharge from a facility located at

Lehigh Northeast Cement Company
25 Terminal Road
Providence, RI 02905

to receiving waters named

Providence River

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on February 1, 2011.

This permit and the authorization to discharge expire at midnight, five (5) years from the effective date.

This permit supersedes the permit issued on March 23, 2005.

This permit consists of 7 pages in Part I including effluent limitations, monitoring requirements, etc. and 10 pages in Part II including General Conditions.

Signed this 17th day of December, 2010.



Angelo S. Liberti, P.E., Chief of Surface Water Protection
Office of Water Resources
Rhode Island Department of Environmental Management
Providence, Rhode Island

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date and lasting through permit expiration, the permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirement</u>				
	Average Monthly	Quantity - lbs./day Average Monthly	Maximum Daily	Average Monthly *(Minimum)	Concentration - specify units Average Weekly *(Average)	Maximum Daily *(Maximum)	Measurement Frequency	Sample Type
Flow	4,500 GPD	4,500 GPD	5,500 GPD				1/month	estimate
TSS	1.31	1.90	35 mg/l			50 mg/l	1/month	composite ¹
Settleable Solids						3.0 ml/l	1/month	composite ¹
pH influent ²				--- s.u.		--- s.u.	1/month	4 Grabs ³
pH effluent ²				--- s.u.		--- s.u.	1/month	4 Grabs ³
pH change ²						0.5 s.u. ⁴	1/month	Calculated

--- Signifies a parameter which must be monitored and data must be reported; no limit has been established at this time.

¹ All composite sampling must consist of a minimum of four (4) grabs spaced equally apart over the course of a normal operating day.

² Sampling for influent and effluent shall be conducted using appropriate allowances for hydraulic detention (flow-through) time. These values will then be used to calculate the pH change. The maximum value to be reported is the largest individual pH change calculated for the reporting period

³ Compliance with these limitations shall be determined by taking a minimum of four (4) grab samples equally spaced over the course of a normal operating day. The grab samples must be analyzed for pH immediately (<15 minutes after sample collection). The maximum value to be reported is the highest individual measurement obtained during the monitoring period. The minimum value to be reported is the lowest individual measurement obtained during the monitoring period.

⁴ In no case shall the discharge cause the receiving water's pH to be outside of the range of 6.5 – 8.5 s.u.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: Outfall 001.

2. The discharge shall not cause the pH of the receiving water to be less than 6.5 nor greater than 8.5 standard units at anytime, unless these values are exceeded due to natural causes or as a result of the approved treatment processes.
3. The discharge shall not cause visible discoloration of the receiving waters.
4. The effluent shall contain neither a visible oil sheen, foam, nor floating solids at any time.
5. All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:
 - a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) One hundred micrograms per liter (100 ug/l);
 - (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitro-phenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 C.F.R. s122.21(g)(7); or
 - (4) Any other notification level established by the Director in accordance with 40 C.F.R. s122.44(f) and Rhode Island Regulations.
 - b. That any activity has occurred or will occur which would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) Five hundred micrograms per liter (500 ug/l);
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 C.F.R. s122.21(g)(7); or
 - (4) Any other notification level established by the Director in accordance with 40 C.F.R. s122.44(f) and Rhode Island Regulations.
 - c. That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product any toxic pollutant which was not reported in the permit application.

B. STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS

1. A Storm Water Pollution Prevention Plan (SWPPP) shall be maintained by the permittee. The SWPPP shall be prepared in accordance with good engineering practices and identify potential sources of pollutants, which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the Plan shall describe and ensure the implementation of Best Management Practices (BMPs) which are to be used to reduce or eliminate the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit.
2. The Plan shall be signed by the permittee in accordance with RIPDES Rule 12 and retained on-site for at least five (5) years. The Plan shall be made available upon request to the Director.
3. If the Plan is reviewed by the Director, he or she may notify the permittee at any time that the Plan does not meet one or more of the minimum requirements of this part. After such notification from the Director, the permittee shall make changes to the Plan and shall submit to the Director a written certification that the requested changes have been made. Unless otherwise provided by the Director, the permittee shall have thirty (30) days after such notification to make the necessary changes.
4. The permittee shall immediately amend the Plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the State; a release of reportable quantities of hazardous substances and oil; or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. Changes must be noted and then submitted to this department. Amendments to the Plan may be reviewed by DEM in the same manner as Part B.3. of this permit.
5. The SWPPP shall include, at a minimum, the following items:
 - a. Description of Potential Pollutant Sources. The Plan must provide a description of potential sources which may be reasonably expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. It must identify all activities and significant materials, which may potentially be significant pollutant sources. Each plan shall include:
 - (1) A site map indicating: a delineation of the drainage area of each storm water outfall, each existing structural control measure to reduce pollutants in storm water runoff, locations where significant materials are exposed to storm water, locations where significant leaks or spills have occurred, a delineation of all impervious surfaces, all surface water bodies, all separate storm sewers, and the locations of the following activities where such areas are exposed to storm water: fueling stations, vehicle and equipment maintenance and/or cleaning areas, material handling areas, material storage areas, process areas, and waste disposal areas;
 - (2) A topographic map extending one-quarter of a mile beyond the property boundaries of the facility;

- (3) An estimate of the overall runoff coefficient for the site, determined by an acceptable method, such as, but not limited to, area weighting;
 - (4) A narrative description of significant materials that have been treated, stored, or disposed of in a manner to allow exposure to storm water between the time of three (3) years prior to the issuance of this permit to the present; method of on-site storage or disposal; materials management practices employed to minimize contact of these materials with storm water runoff between the time of three (3) years prior to the issuance of this permit and the present; materials loading and access areas; the location and description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and description of any treatment the storm water receives;
 - (5) A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at the facility three (3) years prior to the effective date of this permit to the present;
 - (6) A list of any pollutants limited in effluent guidelines to which a facility is subject under 40 CFR Subchapter N, any pollutants listed on a RIPDES permit to discharge process water, and any information required under RIPDES Rule 11.02(a)(14)(iii)-(v) or 40 CFR 122.21(g)(iii)-(v)
 - (7) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow and an estimate of the types of pollutants, which are likely to be present in storm water associated with industrial activity;
 - (8) A summary of existing sampling data describing pollutants in storm water discharges from the facility; and
- b. Storm Water Management Controls. The permittee must develop a description of storm water management controls appropriate for the facility and implement such controls. The appropriateness for implementing controls listed in the Plan must reflect identified potential sources of pollutants at the facility. The description of storm water management controls must address the following minimum components, including a schedule for implementing such controls:
- (1) *Pollution Prevention Team.* The Plan must identify a specific individual(s) within the facility organization as members of a team that are responsible for developing the Plan and assisting the terminal manager in its implementation, maintenance, and revision. The Plan must clearly identify the responsibilities of each team member. The activities and responsibilities of the team must address all aspects of facility's Plan.
 - (2) *Risk Identification and Assessment/Material Inventory.* The Plan must assess the potential of various sources which contribute pollutants to storm water discharge associated with the industrial activity. The Plan must include an inventory of the types of materials handled. Each of the following must be evaluated for the reasonable potential for contributing pollutants to runoff: loading and unloading operations, outdoor manufacturing or processing activities, significant dust or particulate generating processes, and on-site waste disposal practices. Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced, or discharged;

the likelihood of contact with storm water, and the history of significant leaks or spills of toxic or hazardous pollutants.

- (3) *Preventative Maintenance.* A preventative maintenance program must involve inspection and maintenance of storm water management devices (i.e., oil/water separators, catch basins) as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdown or failures resulting in discharges of pollutants to surface waters.
- (4) *Good Housekeeping.* Good housekeeping requires the maintenance of a clean, orderly facility.
- (5) *Spill Prevention and Response Procedure.* Areas where potential spills can occur, and their accompanying drainage points, must be identified clearly in the SWPPP. The potential for spills to enter the storm water drainage system must be eliminated wherever feasible. Where appropriate, specific material handling procedures, storage requirements, and procedures for cleaning up spills must be identified in the Plan and made available to the appropriate personnel. The necessary equipment to implement a clean up must also be made available to personnel. The permittee shall immediately notify the office of releases in excess of reportable quantities.
- (6) *Storm Water Management.* The Plan must contain a narrative consideration of the appropriateness of traditional storm water management practices. Based on an assessment of the potential of various sources at the plant to contribute pollutants to storm water discharges associated with industrial activity (see Part B.5.b.2 of this permit), the Plan must provide that measures, determined to be reasonable and appropriate, must be implemented and maintained.
- (7) *Sediment and Erosion Prevention.* The Plan must identify areas which; due to topography, activities, or other factors; have a high potential for significant soil erosion and identify measures to limit erosion.
- (8) *Employee Training.* Employee training programs must inform personnel responsible for implementing activities identified in the Plan, or otherwise responsible for storm water management at all levels, of the components and goals of the Plan. Training should address topics such as spill response, good housekeeping, and material management practices. The Plan must identify periodic dates for such training.
- (9) *Visual Inspections.* Qualified plant personnel must be identified to inspect designated equipment and plant areas. Material handling areas must be inspected for evidence of, or the potential for, pollutants entering the drainage system. A tracking or follow up procedure must be used to ensure that the appropriate action has been taken in response to the inspection. Records of inspections must be maintained on site for at least five (5) years.
- (10) *Recordkeeping and Internal Reporting Procedures.* Incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges must be included in the records. All inspections and maintenance activities must be documented and maintained on site for at least five (5) years.

- c. Site Inspection. An annual site inspection must be conducted by appropriate personnel named in the SWPPP to verify that the description of potential pollutant sources required under Part B.5.a is accurate, that the drainage map has been updated or otherwise modified to reflect current conditions, and controls to reduce pollutants in storm water discharges associated with industrial activity identified in the Plan are being implemented and are adequate. A tracking or follow up procedure must be used to ensure that the appropriate action has been taken in response to the inspection. Records documenting significant observations made during the site inspection must be retained as part of the SWPPP for a minimum of five (5) years.
- d. Consistency with Other Plans. Storm water management controls may reflect requirements for Spill Prevention Control and Counter-measure (SPCC) plans under Section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by a RIPDES permit and may incorporate any part of such plans into the SWPPP by reference.

C. MONITORING AND REPORTING

1. Monitoring

All monitoring required by this permit shall be done in accordance with sampling and analytical testing procedures specified in the Federal Regulations at 40 CFR Part 136.

2. Reporting

Monitoring results obtained during the previous six (6) months shall be summarized and reported on Discharge Monitoring Report (DMR) Forms, postmarked no later than the 15th day of the month following the completed reporting period. The first report is due on July 15, 2011. Testing shall be reported as follows:

<u>Semi-annual testing to be Performed</u>	<u>Report Due No Later Than</u>
January 1 – June 30	July 15
July 1 - December 31	January 15

Signed copies of these, and all other reports required herein, shall be submitted to:

Rhode Island Department of Environmental Management
RIPDES Program
235 Promenade Street
Providence, Rhode Island 02908

PART II
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DEFINITIONS

GENERAL REQUIREMENTS

(a) Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Chapter 46-12 of the Rhode Island General Laws and the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

- (1) The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (2) The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than 1 year, or both.
- (3) Chapter 46-12 of the Rhode Island General Laws provides that any person who violates a permit condition is subject to a civil penalty of not more than \$5,000 per day of such violation. Any person who willfully or negligently violates a permit condition is subject to a criminal penalty of not more than \$10,000 per day of such violation and imprisonment for not more than 30 days, or both. Any person who knowingly makes any false statement in connection with the permit is subject to a criminal penalty of not more than \$5,000 for each instance of violation or by imprisonment for not more than 30 days, or both.

(b) Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

(c) Need to Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(e) Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures, and, where applicable, compliance with DEM "Rules and Regulations Pertaining to the Operation and Maintenance of Wastewater Treatment Facilities" and "Rules and Regulations Pertaining to the Disposal and Utilization of Wastewater Treatment Facility Sludge." This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

(f) Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause, including but not limited to: (1) Violation of any terms or conditions of this permit; (2) Obtaining this permit by misrepresentation or failure to disclose all relevant facts; or (3) A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(g) Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

(h) Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

(i) Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (2) Have access to and copy, at reasonable times any records that must be kept under the conditions of this permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

- (4) Sample or monitor any substances or parameters at any location, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or Rhode Island law.
- (j) Monitoring and Records
- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the discharge over the sampling and reporting period.
 - (2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings from continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 5 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
 - (3) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
 - (4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 and applicable Rhode Island regulations, unless other test procedures have been specified in this permit.
 - (5) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall upon conviction, be punished by a fine of not more than \$10,000 per violation or by imprisonment for not more than 6 months per violation or by both. Chapter 46-12 of the Rhode Island General Laws also provides that such acts are subject to a fine of not more than \$5,000 per violation, or by imprisonment for not more than 30 days per violation, or by both.
 - (6) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
 - (7) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, applicable State regulations, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(k) Signatory Requirement

All applications, reports, or information submitted to the Director shall be signed and certified in accordance with Rule 12 of the Rhode Island Pollutant Discharge Elimination System (RIPDES) Regulations. Rhode Island General Laws, Chapter 46-12 provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$5,000 per violation, or by imprisonment for not more than 30 days per violation, or by both.

(l) Reporting Requirements

- (1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.
- (2) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with the permit requirements.
- (3) Transfers. This permit is not transferable to any person except after written notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under State and Federal law.
- (4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (5) Twenty-four hour reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment by calling DEM at (401) 222-3961, (401) 222-6519 or (401) 222-2284 at night.

A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following information must be reported immediately:

- (i) Any unanticipated bypass which causes a violation of any effluent limitation in the permit; or
- (ii) Any upset which causes a violation of any effluent limitation in the permit; or
- (iii) Any violation of a maximum daily discharge limitation for any of the pollutants specifically listed by the Director in the permit.

The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (6) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1), (2), and (5), of this section, at the time monitoring reports are submitted. The reports shall contain the information required in paragraph (1)(5) of the section.
- (7) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, they shall promptly submit such facts or information.

(m) Bypass

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

- (1) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (2) and (3) of this section.

(2) Notice.

- (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.
- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Rule 14.18 of the RIPDES Regulations.

(3) Prohibition of bypass.

- (i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, where "severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph (2) of this section.

- (ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (3)(i) of this section.

(n) Upset

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (1) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (2) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (2) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was at the time being properly operated;
 - (c) The permittee submitted notice of the upset as required in Rule 14.18 of the RIPDES Regulations; and
 - (d) The permittee complied with any remedial measures required under Rule 14.05 of the RIPDES Regulations.
- (3) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(o) Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. Discharges which cause a violation of water quality standards are prohibited. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different or increased discharges of pollutants must be reported by submission of a new NPDES application at least 180 days prior to commencement of such discharges, or if such changes will not violate the effluent limitations specified in this permit, by notice, in writing, to the Director of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(p) Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner consistent with applicable Federal and State laws and regulations including, but not limited to the CWA and the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§6901 ~~et seq.~~, Rhode Island General Laws, Chapters 46-12, 23-19.1 and regulations promulgated thereunder.

(q) Power Failures

In order to maintain compliance with the effluent limitation and prohibitions of this permit, the permittee shall either:

In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities;

or if such alternative power source is not in existence, and no date for its implementation appears in Part I,

Halt reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(r) Availability of Reports

Except for data determined to be confidential under paragraph (w) below, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the DEM, 291 Promenade Street, Providence, Rhode Island. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA and under Section 46-12-14 of the Rhode Island General Laws.

(s) State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law.

(t) Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

(u) Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

(v) Reopener Clause

The Director reserves the right to make appropriate revisions to this permit in order to incorporate any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA or State law. In accordance with Rules 15 and 23 of the RIPDES Regulations, if any effluent standard or prohibition, or water quality standard is promulgated under the CWA or under State law which is more stringent than any limitation on the pollutant in the permit, or controls a pollutant not limited in the permit, then the Director may promptly reopen the permit and modify or revoke and reissue the permit to conform to the applicable standard.

(w) Confidentiality of Information

(1) Any information submitted to DEM pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, DEM may make the information available to the public without further notice.

(2) Claims of confidentiality for the following information will be denied:

- (i) The name and address of any permit applicant or permittee;
- (ii) Permit applications, permits and any attachments thereto; and
- (iii) NPDES effluent data.

(x) Best Management Practices

The permittee shall adopt Best Management Practices (BMP) to control or abate the discharge of toxic pollutants and hazardous substances associated with or ancillary to the industrial manufacturing or treatment process and the Director may request the submission of a BMP plan where the Director determines that a permittee's practices may contribute significant amounts of such pollutants to waters of the State.

(y) Right of Appeal

Within thirty (30) days of receipt of notice of a final permit decision, the permittee or any interested person may submit a request to the Director for an adjudicatory hearing to reconsider or contest that decision. The request for a hearing must conform to the requirements of Rule 49 of the RIPDES Regulations.

DEFINITIONS

1. For purposes of this permit, those definitions contained in the RIPDES Regulations and the Rhode Island Pretreatment Regulations shall apply.
2. The following abbreviations, when used, are defined below.

cu. M/day or M ³ /day	cubic meters per day
mg/l	milligrams per liter
ug/l	micrograms per liter
lbs/day	pounds per day
kg/day	kilograms per day
Temp. °C	temperature in degrees Centigrade
Temp. °F	temperature in degrees Fahrenheit
Turb.	turbidity measured by the Nephelometric Method (NTU)
TNFR or TSS	total nonfilterable residue or total suspended solids
DO	dissolved oxygen
BOD	five-day biochemical oxygen demand unless otherwise specified
TKN	total Kjeldahl nitrogen as nitrogen
Total N	total nitrogen
NH ₃ -N	ammonia nitrogen as nitrogen
Total P	total phosphorus
COD	chemical oxygen demand
TOC	total organic carbon
Surfactant	surface-active agent
pH	a measure of the hydrogen ion concentration
PCB	polychlorinated biphenyl
CFS	cubic feet per second
MGD	million gallons per day
Oil & Grease	Freon extractable material
Total Coliform	total coliform bacteria
Fecal Coliform	total fecal coliform bacteria
ml/l	milliliter(s) per liter
NO ₃ -N	nitrate nitrogen as nitrogen
NO ₂ -N	nitrite nitrogen as nitrogen
NO ₃ -NO ₂	combined nitrate and nitrite nitrogen as nitrogen
Cl ₂	total residual chlorine

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 PROMENADE STREET
PROVIDENCE, RHODE ISLAND 02908-5767

STATEMENT OF BASIS

DRAFT RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM (RIPDES) PERMIT TO DISCHARGE TO WATERS OF THE STATE

RIPDES PERMIT NO. **RI0001643**

NAME AND ADDRESS OF APPLICANT:

Lehigh Northeast Cement Company
55 Fields Point Drive
Providence, RI 02905

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

Lehigh Northeast Cement Company
25 Terminal Road
Providence, RI 02905

RECEIVING WATER: Providence River

CLASSIFICATION: SB1 {a}

I. **Proposed Action, Type of Facility, and Discharge Location**

The above named applicant has applied to the Rhode Island Department of Environmental Management for reissuance of a RIPDES Permit to discharge into the designated receiving water.

II. **Limitations and Conditions**

The effluent limitations of the draft permit, the monitoring requirements, and any implementation schedule (if required) may be found in the draft permit. A summary of historical effluent data may be found in Attachment A. A discharge flow schematic is provided in Attachment B.

III. **Permit Basis and Explanation of Effluent Limitation Derivation**

Lehigh Northeast Cement Company's 25 Terminal Road facility is currently used for the transfer of Type I and Type II Portland Cement. Transportation of the cement products may occur via tanker trucks or ships along the Providence River. Lehigh Northeast Cement Company rents a portion of the site to Hudson Terminal Corporation, which stores empty tankers on site and conducts minor equipment maintenance indoors. Miscellaneous vehicle and equipment storage also occurs on site. The discharge consists of truck wash water that passes through a settling basin before entering the Providence River. A small amount of storm water also flows from this shipping depot and truck wash area into the settling basin before being discharged to the Providence River. The maximum permitted combined effluent flow rate is 5500 GPD. Periodically settled cement product accumulates in the settling basins and the cement must be dredged from

the tanks and are placed in a stockpile area to dry. Once the dredged cement has dried it is taken off site by an outside contractor and recycled.

The proposed discharge is to the Providence River (Water Body ID No. RI0007020E-01B) which has a Water Use Classification of SB1{a}. The RI Water Quality Regulations designates these waters for primary and secondary contact recreational activities and fish and wildlife habitat. They shall be suitable for aquacultural uses, navigation, and industrial cooling. These waters shall have good aesthetic value. Primary contact recreational activities may be impacted due to pathogens from approved wastewater discharges. However all Class SB criteria must be met. These waters will likely be impacted by combined sewer overflows in accordance with approved CSO Facilities Plans and in compliance with rule 19.E.1 of these regulations and the Rhode Island CSO Policy. Therefore, primary contact recreational activities; shellfishing uses; and fish and wildlife habitat will likely be restricted.

The State of Rhode Island 2008 303(d) List of Impaired Waters dated April 1, 2008 lists the Providence River as impaired for total nitrogen, dissolved oxygen, and fecal coliform.

The requirements set forth in this draft permit are based on the State's Water Quality Regulations, the Rhode Island Pollution Discharge Elimination System (RIPDES) Regulations, both filed pursuant to Chapter 46-12, as amended, and EPA guidelines.

DEM's primary authority over the permit comes from EPA's delegation of the program in September 1984 under the Federal Clean Water Act (CWA).

The effluent limitation for maximum daily TSS is technology-based and is derived from the cement manufacturing point source category within 40 CFR 411.37, best conventional pollution control technology (BCT). The TSS limit of 35 mg/L (average monthly) is carried over from the previous permit. These more stringent effluent limits for average monthly TSS found in the original permit are to be retained to prevent a degradation in the quality of the receiving water. The average monthly mass limitation for TSS was calculated by multiplying the average monthly concentration for TSS multiplied by the average monthly flow rate multiplied by a conversion factor of 8.34. The maximum daily mass discharge limitation for TSS was calculated by multiplying the maximum daily concentration for TSS multiplied by the average monthly flow rate multiplied by a conversion factor of 8.34. The effluent limits for settleable solids are retained from the previous permit to prevent degradation of water quality. The effluent limitations for pH are taken from the Water Quality Regulations for salt water, which limit pH to between 6.5 and 8.5. These pH limitations are more stringent than the pH limitations found in 40 CFR Part 411.37.


Rule 31 of the RIPDES Regulations classifies stormwater discharges from facilities with SIC codes of 3241 as "industrial stormwater". Because the application submitted to DEM on October 26, 1990 identified the SIC code of this facility as 3241 and indicated that the facility has a discharge of stormwater, this facility has been subject to the requirements of Rule 31. This rule requires that a Storm Water Pollution Prevention Plan (SWPPP) must be developed and as a result a SWPPP requirement was added to the previous permit issued in March of 2005. The requirement to have a SWPPP in place has been carried forward in this permit. The SWPPP shall be prepared in accordance with good engineering practices and identify potential sources of pollutants, which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility and the controls in place to minimize the contamination of storm water.

IV. DEM Contact

Additional information concerning the draft permit may be obtained between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding holidays, from:

Brian Lafaille, P.E.
RIPDES Program
Office of Water Resources
Department of Environmental Management
235 Promenade Street
Providence, Rhode Island 02908
Telephone: (401) 222-4700 x7046

11/1/10
Date


Eric A. Beck, P.E.
Supervising Sanitary Engineer
RIPDES Permitting Section
Office of Water Resources
Department of Environmental Management

ATTACHMENT A: HISTORICAL EFFLUENT DATA

DESCRIPTION OF DISCHARGE: Discharge from settling tanks 001

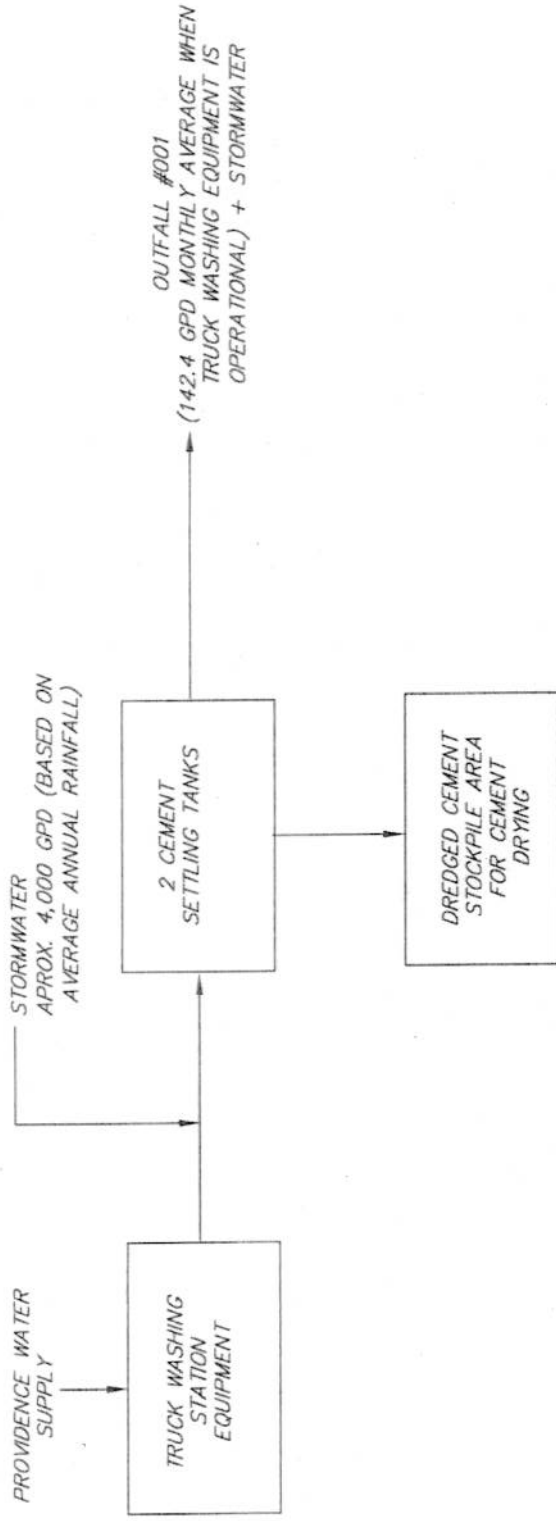
AVERAGE EFFLUENT CHARACTERISTICS AT POINT OF DISCHARGE

PARAMETER	AVERAGE¹	MAXIMUM¹
FLOW (GPD), AVERAGE MONTHLY	250	404
FLOW (GPD), MAXIMUM DAILY	404	543
TSS (LBS/DAY)	0.0122	0.0245
TSS (MG/L) AVERAGE MONTHLY	33	82
TSS (MG/L) MAXIMUM DAILY	33	82
SETTLEABLE SOLIDS (ML/L)	0.6	0.6
pH Influent (s.u.)	10.8 (Minimum)	13.8 (Maximum)
pH Effluent (s.u.)	10.9 (Minimum)	12.3 (Maximum)
pH Change (s.u.)	0.5	0.9

¹ Data reflects Discharge Monitoring Report data submitted from May 1, 2005 to September 1, 2010.

ATTACHMENT B

**Lehigh Northeast Cement Company
25 Terminal Road, Providence, RI Facility
Flow Schematic**



NOTE: FLOWS PROVIDED WERE TAKEN FROM DMR DATASHEET FOR THE PERIOD OF JANUARY 2008 THROUGH JUNE 2008.

PROJ. No. 2010043A10
DATE: AUGUST 2010

ATT.

LEHIGH NORTHEAST CEMENT COMPANY
FORM 2C - SCHEMATIC OF WATER FLOW
TERMINAL ROAD FACILITY

RHODE ISLAND

PROVIDENCE

WWW.FUSSO.COM



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SCALE	HORZ.	VERT.
DATUM	HORZ.	VERT.