

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Dixon-Marquette Cement, Inc.) NOTICE OF VIOLATION AND
Dixon, Illinois) FINDING OF VIOLATION
)
Proceedings Pursuant to) EPA-5-03-IL-10
Section 113(a)(1) and (a)(3))
of the Clean Air Act, 42)
U.S.C. § 7413(a)(1) and (a)(3))
_____)

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency ("U.S. EPA"), is issuing this Notice of Violation and Finding of Violation under Section 113(a)(1) and (a)(3) of the Clean Air Act (the "Act"), 42 U.S.C. §§ 7413(a)(1) and (a)(3). The U.S. EPA finds that Dixon-Marquette Cement, Inc., located in Dixon, Illinois, is in violation of Subchapter I, Part C and Subchapter V of the Act, and the Illinois State Implementation Plan ("SIP"), as follows:

Prevention of Significant Deterioration Requirements

1. The U.S. EPA promulgated the prevention of significant deterioration ("PSD") of air quality standards pursuant to Subchapter I, Part C of the Act, on June 19, 1978. The PSD regulations were revised on August 1, 1980 (45 Fed. Reg. 52676), and are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403).
2. Subchapter I, Part C of the Act, and the PSD regulations implementing Part C at 40 C.F.R. § 52.21(i), prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is "major" in that it will result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has either achieved the National Ambient Air Quality Standards ("NAAQS") for that pollutant, or has been designated as unclassifiable for that pollutant. Part C and its implementing regulations further require that a source subject to these PSD regulations shall install Best Available Control Technology ("BACT") to control the emissions of each regulated pollutant. 40 C.F.R. § 52.21(j).

3. 40 C.F.R. §§ 52.21(b)(1)(i)(a) and (b)(1)(iii)(c) defines the term "major stationary source" as any source, including portland cement plants, which emits or has the potential to emit, 100 tons per year ("tpy") or more of any pollutant subject to the regulations under the Act.
4. 40 C.F.R. § 52.21(b)(2)(i) defines the term "major modification" as any physical change in, or change in the method of operation of, a major stationary source that would result in a significant net emission increase of any pollutant subject to the regulations under the Act.
5. 40 C.F.R. § 52.21(b)(3)(i) defines "net emissions increase" as "the amount by which the sum of the following exceeds zero:
 - (a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and
 - (b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
6. 40 C.F.R. § 52.21(b)(4) defines the term "potential to emit" as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of fuel combusted, stored or processed, shall be treated as part of its design, if the limitation or the effect it would have on emissions is federally enforceable.
7. 40 C.F.R. § 52.21(b)(23)(i) defines the term "significant" net emissions increase for particulate matter ("PM") as a rate of emissions which would equal or exceed 25 tpy of PM and for sulfur dioxide (SO₂) as a rate of emissions which would equal or exceed 40 tpy of SO₂.
8. 40 C.F.R. § 52.21(i)(1) prohibits, in part, the major modification of a major stationary source without a permit which states that such modification would meet the requirements of 40 C.F.R. §§ 52.21 (j) through (r).
9. 40 C.F.R. § 52.21(j)(3) provides that for each pollutant subject to regulation under the Act for which a major modification would result in a significant net emissions increase at the source, the owner or operator of the major

modification shall apply BACT to each proposed emissions unit at which the increase would occur as the result of physical changes and changes in the methods of operation of the unit.

10. 40 C.F.R. § 52.21(n) states that an owner or operator proposing to modify a stationary source is required to provide all relevant information to allow the permitting authority to perform an analysis or make the determination required in order to issue the appropriate permit.
11. 40 C.F.R. § 52.21(r)(1) states that any owner or operator of a source subject to the PSD regulations who operates a source or modification without applying for and receiving approval under the PSD regulations may be subject to an enforcement action.
12. The PSD regulations at 40 C.F.R. §§ 52.21(b) through (w) were incorporated into the Illinois SIP on August 7, 1980. See 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, August 7, 1980, as amended at 46 Fed. Reg. 9584, January 29, 1981).

Permit Requirements

13. On May 31, 1972, the U.S. EPA approved the Illinois Pollution Control Board ("PCB") Rules 103(a)(1) and 103(b)(1) as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10842. Due to renumbering of the Illinois PCB Rules, Rules 103(a) and 103(b)(1), as approved by the U.S. EPA, are currently set forth at Ill. Admin. Code ("IAC") Title 35, §§ 201.142 and 201.143, respectively.
14. 35 IAC § 201.142 prohibits the construction of any new emission source or air pollution control equipment, or the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the State of Illinois.
15. 35 IAC § 201.143 prohibits the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by 35 IAC § 201.142 without first obtaining an operating permit from the State of Illinois.
16. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), states that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act.

17. Section 503(d) of the Act, 42 U.S.C. § 7661b(d), sets forth the requirement to timely submit an application for a Title V permit, including all required information.
18. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete Title V permit application in accordance with Part 70 requirements.
19. 40 C.F.R. § 70.7(b) provides that no source subject to Part 70 requirements may operate without a Title V permit as specified in the Act.
20. The U.S. EPA promulgated final interim approval of the Illinois Title V program on March 7, 1995 (60 Fed. Reg. 12478), and the program became effective on that date. The U.S. EPA promulgated final full approval of this program on November 30, 2001 (40 C.F.R. Part 70 Appendix A).

Dixon-Marquette's Facility

21. Dixon-Marquette owns and operates a portland cement plant located at 1914 White Oak Lane in Dixon, Illinois.
22. Dixon-Marquette is located in Lee County, Illinois, an area designated as "attainment" for the NAAQS for PM and SO₂. 40 C.F.R. § 81.314.
23. Dixon-Marquette constructed this portland cement plant during or around 1956. This portland cement plant emits or has the potential to emit 100 tpy or more of a pollutant regulated under the Act and, therefore, is a "major stationary source."
24. Dixon-Marquette's portland cement plant was originally constructed with only three cement kilns. However, Dixon-Marquette constructed a fourth cement kiln, hereinafter referred to as cement kiln No. 4, during or around 1960.
25. Dixon-Marquette installed a clinker cooler at each of the four cement kilns during or around 1976. Each clinker cooler uses ambient air to cool down the clinker produced at their respective kiln. The resulting hot air produced at each clinker cooler is recovered and used to increase the firing efficiency at each associated kiln.
26. Dixon-Marquette modified the clinker cooler associated with cement kiln No. 4, hereinafter referred to as clinker cooler No. 4, either during or before 2001. This modification involved increasing the depth of the clinker bed

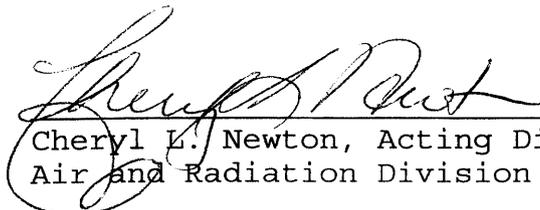
by decreasing the width of the cooler grates to increase cooling efficiency. This modification boosted the heat recovery from clinker No. 4, resulting in an increase in the firing efficiency of cement kiln No. 4.

27. Dixon-Marquette's PM emissions from cement kiln No. 4 in 2000 were 28.10 tpy.
28. Dixon-Marquette's PM emissions from cement kiln No. 4 in 2001 were 85.54 tpy.
29. Dixon-Marquette's modification of clinker cooler No. 4 is defined as a "major modification" because the net increase of PM emissions to the atmosphere from cement kiln No. 4 from 2000 to 2001 was greater than 25 tpy and that, therefore, was a "significant emission increase."
30. Dixon-Marquette's SO₂ emissions from cement kiln No. 4 in 2000 were 96.10 tpy.
31. Dixon-Marquette's SO₂ emissions from cement kiln No. 4 in 2001 were 784.67 tpy.
32. Dixon-Marquette's modification of clinker cooler No. 4 is also defined as a "major modification" because the net emission increase of SO₂ to the atmosphere from cement kiln No. 4 from 2000 to 2001 was greater than 40 tpy and that, therefore, was also a "significant emission increase."
33. Emissions from Dixon-Marquette's portland cement facility are subject to the PSD regulations in the Illinois SIP rules, and to the requirements to obtain both a construction permit and an operating permit incorporating such PSD requirements, as required by the Act and the Illinois SIP rules, because the modification of clinker cooler No. 4 is defined as a "major modification".
34. Dixon-Marquette's facility is also subject to Title V of the Act, 42 U.S.C. §§ 7661 et. seq. because it is a "major source" as that term is defined at section 501(2) of the Act, 42 U.S.C. § 7661(2), with the potential to emit more than 100 tpy of a pollutant regulated under the Act.

Finding of Violations

35. Dixon-Marquette made a major modification to clinker cooler No. 4 either during or before 2001, but did not obtain a PSD permit for this modification, thereby violating the PSD rule at 40 C.F.R. § 52.21(i).
36. Dixon-Marquette made a major modification to clinker cooler No. 4 either during or before 2001, but did not obtain a construction permit for this modification, thereby violating the Illinois SIP rule at 35 IAC § 201.142.
37. Dixon-Marquette operated and continues to operate clinker cooler No. 4 in its modified state, without having obtained an operating permit, thereby violating the Illinois SIP rule at 35 IAC § 201.143.
38. Dixon-Marquette also failed to apply BACT for PM at cement kiln No. 4 when it modified clinker cooler No. 4, thereby violating the Illinois SIP rule at 40 C.F.R. § 52.21(j)(3).
39. Dixon-Marquette also failed to apply BACT for SO₂ at cement kiln No. 4 when it modified clinker cooler No. 4, thereby violating the Illinois SIP rule at 40 C.F.R. § 52.21(j)(3).
40. Each of these violations exists from at least the date on which construction of the modification to clinker cooler No. 4 was commenced, and continues until the appropriate permits are obtained and the necessary pollution control equipment is installed and operated on cement kiln No. 4.
41. Dixon-Marquette has also failed to submit a timely and complete Title V permit application with information pertaining to its circa 2001 major modification of clinker cooler No. 4, violating section 503 of the Act, and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating section 502 of the Act.
42. This violation of Title V exists from at least the date on which construction of the modification to clinker cooler No. 4 was commenced, and continues until Dixon-Marquette submits a complete Title V permit application.

3/13/03
Date


Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation and Finding of Violation, EPA-5-03-IL-10, by Certified Mail, Return Receipt Requested, to:

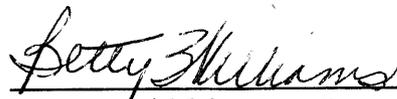
Neil DeRynck,
Environmental Manager/Licensed Professional Geologist
Dixon-Marquette Cement Inc.
1914 White Oak Lane
Dixon, Illinois 61021

I also certify that I sent copies of the Notice and Finding of Violation by first class mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

Richard Jennings, Regional Manager
Region II
Illinois Environmental Protection Agency
5415 North University Avenue
Peoria, Illinois 61614

on the 14th day of March, 2003.



Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 00060178 3080