

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
CEMEX) FINDING OF VIOLATION
Charlevoix, Michigan)
) EPA-02-MI-01
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)
_____)
)
)

Finding of Violation

The United States Environmental Protection Agency (U.S. EPA) finds that CEMEX is violating Section 111(e) of the Clean Air Act (Act), 42 U.S.C. § 7411(e). Specifically, CEMEX is violating the New Source Performance Standards (NSPS) for Portland Cement Plants, 40 C.F.R. Part 60 Subpart F as follows:

Regulatory Authority

1. On July 25, 1977, under Section 111(e) of the Act, U.S. EPA promulgated the Standards of Performance for Portland Cement Plants. 40 C.F.R. Part 60, Subpart F, §§ 60.60 - 60.66.
2. 40 C.F.R. § 60.60(a) specifies that the provisions of Subpart F apply to kilns, clinker coolers, raw mill systems, finish mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.
3. Any facility subject to the provisions of 40 C.F.R. § 60.60(a) that commences construction or modification after August 17, 1971, is subject to the requirements of Subpart F.
4. 40 C.F.R. § 60 Subpart A, states that owners and operators shall maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Monitoring results and opacity observation results, among other things, are relevant to the determination of whether an affected facility is operating a control equipment in a manner consistent with good air pollution control practice. 40 C.F.R. § 60.11(d).

5. 40 C.F.R. § 60.62(a)(2) states that no owner or operator subject to the provision of Subpart F shall cause to be discharged into the atmosphere from any kiln any gases which exhibit greater than 20 percent opacity.

6. 40 C.F.R. § 60.62(b)(2) states that no owner or operator subject to the provision of Subpart F shall cause to be discharged into the atmosphere from any clinker cooler any gases which exhibit greater than 10 percent opacity.

7. 40 C.F.R. § 60.62(c) states that no owner or operator of any affected facility under Subpart F other than the kiln and clinker cooler may discharge or cause the discharge of any gases into the atmosphere exhibiting greater than 10 percent opacity.

Factual Background

8. CEMEX owns and operates a portland cement plant at 16000 Bells Bay Road, Charlevoix, Michigan. The CEMEX plant commenced modification after August 17, 1971, and therefore is subject to 40 C.F.R. Part 60 Subpart F.

9. The kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems located at this plant are affected facilities under 40 C.F.R. § 60.60(a).

10. Representatives from U.S. EPA and its delegated agent, Michigan Department of Environmental Quality (MDEQ) have conducted inspections at CEMEX. During the inspections, Method 9 opacity readings were performed on the visible emissions released from several affected facilities. The reading documented violations of 40 C.F.R. § 60, Subpart F Standards.

11. Continuous opacity monitoring excess emission reports (EER) the plant submitted to MDEQ also demonstrate exceedances of the opacity limits contained in 40 C.F.R. § 60, Subpart F.

Violations

12. CEMEX did not maintain or operate air pollution control devices in a manner consistent with good air pollution practices. Exceeding opacity limits represents an operation not consistent with good air pollution control practice for minimizing emissions, and violates 40 C.F.R. § 60.11(d).

13. Method 9 opacity readings conducted by U.S. EPA at the clinker bucket elevator bypass chute at the plant documented violation of 40 C.F.R. § 60.62(c), as follows:

Clinker Bucket Elevator Bypass Chute

Date	Time	Reading/avg.%	Limit
7-25-01	10:27-10:33	99.6	10%
	10:33-10:39	99.6	
	10:39-10:45	91.25	
	10:45-10:51	79.17	
	10:51-10:57	75.58	

14. Method 9 opacity readings performed by MDEQ, at the enclosure for the North Conditioning Tower at the plant demonstrated violation of 40 C.F.R. § 60.62(c), as follows:

North Conditioning Tower Enclosure

Date	Time	Reading/avg.%	Limit
7-24-01	4:12-4:18	56.7	10%
	4:18-4:24	64.58	

15. Method 9 opacity readings performed by MDEQ, at the A-frame storage building at the plant resulted in violation of 40 C.F.R. § 60.62(c), as follows:

A-Frame Storage Building

Date	Time	Reading/avg.%	Limit
6-25-01	11:33-11:39	21.7	10%

16. Method 9 opacity readings performed by MDEQ, at the Finish Mill #3 stack at the plant resulted in violation of 40 C.F.R. § 60.62(c), as follows:

Finish Mill #3 Stack

Date	Time	Reading/avg.%	Limit
6-25-01	1:45-1:51	15.6	10%
	1:51-1:57	18.1	
	1:57-2:03	17.7	
	2:03-2:09	19.4	

17. Method 9 opacity readings performed by MDEQ, at the enclosure for the South Conditioning Tower at the plant resulted in violation of 40 C.F.R. § 60.62(c), as follows:

South Conditioning Tower Enclosure

Date	Time	Reading/avg.%	Limit
6-25-01	2:45-2:51	13.3	10%
	2:51-2:57	58.3	
2-15-01	2:14-2:20	53.54	
	2:20-2:26	24.8	

18. Method 9 opacity readings performed by MDEQ, at the loading silo baghouse at the plant documented violation of 40 C.F.R. § 60.62(c), as follows:

Loading Silo Baghouse

Date	Time	Reading/avg.%	Limit
6-14-01	2:49-2:55	24.8	10%
	2:55-3:01	26	

19. As presented below, continuous opacity monitoring EER for the plant for February 2001, demonstrate violations of 40 C.F.R. § 60.62(a)(2) and 60.62(b)(2):

Main Stack

Monitoring Period	Percent of Operating Time Above the Limit	Limit
2-01-01 through 3-01-01	8.47	20%

Clinker Cooler/Gravel Bed Stack

Monitoring Period	Percent of Operating Time Above the Limit	Limit
2-01-01 through 3-01-01	8.30	10%

12-31-01

Date



Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation and a Notice of Violation by Certified Mail, Return Receipt

Requested, to:

Mr. Stuart Tomlinson
Plant Manager
CEMEX
16000 Bells Bay Road
Charlevoix, Michigan 49720

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

Mr. Timothy J. McGarry
Enforcement Unit Chief
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909-7760

Janis Denman, Supervisor
Cadillac District Office
120 W. Chapin Street
Cadillac, Michigan 49601

on the 31 day of December, 2001.


Shanee Rucker, Secretary
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9586 3214