

Los Angeles Regional Water Quality Control Board

May 29, 2018

Mr. Daniel Olivera
Vice President/General Manager
CEMEX Construction Materials Pacific, LLC
3990 E. Concourse Street, Suite 3200
Ontario, CA 91764

Dear Mr. Olivera:

MINOR CHANGES TO TENTATIVE FACT SHEET OF TENTATIVE WASTE DISCHARGE REQUIREMENTS (WDRS) AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR CEMEX CONSTRUCTION MATERIALS PACIFIC, LLC, MOORPARK FACILITY, MOORPARK, CA. (NPDES NO. CA0059315, CI NO. 6658)

On April 24, 2018, we transmitted the tentative Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) Permit for the Moorpark Facility. No formal comments were received at the Regional Board by the May 24, 2018, comment submittal deadline.

After the public comment period ended, we discovered minor errors in the antibacksliding analysis and corrected them. The modifications made in the Fact Sheet do not change the substance of any permit provisions. Enclosed is the revised page F-28 that reflects the recommended changes. Other portions of the tentative permit are not enclosed since they remain unchanged from the previous mailout. Changes on the revised page appear in the strikeout/underline format for deletions and insertions, respectively.

The April 24, 2018 letter also informed you that the Board hearing would be held on June 14, 2018, at 9:00 a.m., at Metropolitan Water District of Southern California, Board Room, 700 North Alameda Street, Los Angeles, California. The venue and time of the Board hearing remain unchanged.

Since no comments were received during the public comment period, Regional Board staff listed this as an uncontested item on the Board agenda. The uncontested item will be subject to the Board decision at the beginning of the Board hearing without any discussion unless issues or concerns are raised by Board members or other parties present at the hearing. It is expected that the Board will take action at the hearing; however, as testimony indicates, the Board, at its discretion, may order further investigation.

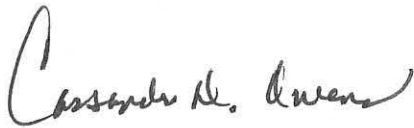
Mr. Daniel Olivera
CEMEX Construction Materials Pacific, LLC
Moorpark Facility

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May 29, 2018

If you have any questions, please contact Jau Ren Chen at (213) 576-6656.

Sincerely,



Cassandra Owens, Chief
Industrial Permitting Unit

Enclosures

MAILING LIST (VIA EMAIL ONLY)

David Smith, Environmental Protection Agency, Region 9, Permits Branch (WTR-5)
Robyn Stuber, Environmental Protection Agency, Region 9, Permits Branch (WTR-5)
Kenneth Wong, U.S Army Corps of Engineers
Bryant Chesney, NOAA, National Marine Fisheries Service
Jeff Phillips, Department of Interior, U.S. Fish and Wildlife Service
William Paznokas, Department of Fish and Game, Region 5
Tim Smith, Los Angeles County, Department of Public Works, Waste Management Division
Bellete Yohannes, City of Los Angeles, Bureau of Sanitation, Industrial Waste Management
Angelo Bellomo, Los Angeles County, Department of Health Services
Sarah Sikich, Heal the Bay
Annelisa Moe, Heal the Bay
Bruce Reznik, Los Angeles Waterkeeper
Arthur Pugsley, Los Angeles Waterkeeper
Melissa Kelly, Los Angeles Waterkeeper
Corinne Bell, Natural Resources Defense Council
Jason Weiner, Ventura Coastkeeper
Brian Mastin, CEMEX Construction Materials Pacific, LLC.
Patricia Contreras, CEMEX Construction Materials Pacific, LLC.
James Ashby, PG Environmental
Sarah Torres, PG Environmental

combination with U.S. EPA's toxicity test methods and is implemented in federal permits issued by U.S. EPA Region 9.

The TST's null hypothesis for chronic toxicity is:

$$H_0: \text{Mean response (In-stream Waste Concentration (IWC) in \% \text{ effluent})} \\ \leq 0.75 \text{ mean response (Control).}$$

Results obtained from a chronic toxicity test are analyzed using the TST statistical approach and an acceptable level of chronic toxicity is demonstrated by rejecting the null hypothesis and reporting "Pass" or "P". Chronic toxicity results are expressed as "Pass" or "Fail" and "% Effect". Since no dilution credit is allowed for the discharge, the chronic toxicity IWC for Discharge Point 001 is 100 percent effluent. The MDEL for chronic toxicity is exceeded and a violation will be flagged when a chronic toxicity test, analyzed at the IWC using the TST statistical approach, results in "Fail" and the Percent Effect is $\geq 50\%$.

This Order includes a chronic toxicity limitation and chronic toxicity monitoring with interpretation using TST methods. The acute toxicity limitation is discontinued as chronic toxicity is a more stringent requirement than acute toxicity, and it evaluates the mortality endpoint as does the acute toxicity testing as well as deleterious effects such as reductions in growth and reproduction which will likely occur prior to mortality.

D. Final Effluent Limitation Considerations

~~Section 402(o) of the CWA and section 122.44(l) require that effluent limitations or conditions in reissued Orders be at least as stringent as those in the existing Order based on the submitted sampling data. With the exception of acute toxicity, effluent limitations are retained from Order No. R4-2013-0078. Removal of these numeric limitations would constitute backsliding under CWA section 402(o).~~

1. Anti-Backsliding Requirements

Sections 402(o) and 303(d)(4) of the CWA and federal regulations at 40 C.F.R. section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in Order No. R4-2013-0078 with the exception of the limitations for barium, arsenic, cadmium and nickel (dry weather). ~~With respect to these pollutants, it appears a technical mistake was made and the effluent limitations for these pollutants should not have been included in prior permits. Specifically, a~~ review of the last data available from the Facility indicates no reasonable potential for these pollutants to be discharged as specified in Table F-8. When preparing the previous Orders, the effluent limitations in Order No. R4-2002-0102 were carried over to the subsequent orders, Order No. R4-2007-0060 and Order No. 2013-0078, regardless of the fact that there was no reasonable potential for these pollutant concentrations to exceed water quality objectives. ~~Additionally, t~~The removal of the requirements is justified because material and substantial alterations or additions to the Facility occurred after the last discharge at the Facility occurred in 2005. The decision not to include these effluent limitations is therefore based on the reasonable potential analyses and is consistent with the anti-backsliding requirements of the CWA and federal regulations. (40 C.F.R. § ~~122.44-22~~(l)(2)(i)(~~BA~~), (~~B~~)(1))(2); and 40 C.F.R. § 122.62(a)(1),(2) ~~and 33 U.S.C. 1342(o)(2)(A),(B)(i).~~)

Order R4-2013-0078 established effluent limitations for acute toxicity. This Order discontinues acute toxicity limitations but retains the chronic toxicity limitations. Chronic

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