

OHIO E.P.A.

JUN 21 2011

ENTERED DIRECTOR'S JOURNAL

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**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

CEMEX :  
Fairborn Plant :  
Attn: Robert J. Hocks :  
Environmental Manager :  
3250 Linebaugh Road :  
Fairborn, Ohio 45385 :

**Director's Final Findings  
and Orders**

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: John Casale Date: 6-21-11

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to CEMEX Corporation Fairborn Plant ("CEMEX") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.02(G) and Ohio Administrative Code ("OAC") Rule 3745-27-03(B).

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon CEMEX and successors in interest liable under Ohio law. No change in ownership of CEMEX or of the Facility, as hereinafter defined, shall in any way alter CEMEX's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA ("Director") has determined the following findings:

1. CEMEX, Fairborn Plant ("Facility") is a cement plant that uses coal for fuel and is located at 3250 Linebaugh Road, Fairborn, Greene County, Ohio.
2. On May 23, 2011, Ohio EPA received a request from CEMEX dated May 20, 2011, for a temporary exemption from the requirement to apply for and obtain a PTI modification for an air contaminant source in order to conduct operational trial and test burns utilizing an alternative fuel source within the Facility's kiln.
3. CEMEX plans to conduct trial burns of mixtures of coal and the following engineered fuels as alternative fuel sources for an operational trial period at the Facility;
  - Refuse Derived Fuel (RDF) from comingled residential sources,
  - RDF from source separated commercial sources,
  - agricultural products, and
  - VEXOR Engineered Fuel® (VEF).
4. On May 23, 2011, Ohio EPA received a request from CEMEX dated May 20, 2011 for an exemption, pursuant to ORC Section 3734.02(G), from any requirement to obtain a registration certificate, permit, or license or comply with other requirements of ORC Chapter 3734 in order to conduct the engineered fuel test burns.
5. On June 14, 2011, Ohio EPA granted CEMEX temporary exemption to conduct operational trial and test burns at the Facility.
6. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license or comply with other requirements of ORC Chapter 3734 and any rules adopted thereunder.
7. To the extent that the use of this alternative fuel source would require CEMEX to obtain a permit and license under ORC Chapter 3734 and the rules promulgated thereunder, or comply with OAC Chapters 3745-27 and 3745-37 pertaining to operation and final closure of a solid waste incinerator or solid waste energy recovery facility, the Director has determined that issuance of an exemption to CEMEX from those requirements so that CEMEX may use the engineered fuels to conduct operational trial and test burns at the Facility, as approved by Ohio EPA on June 14, 2011, is unlikely to adversely affect the public health or safety or the environment.

#### **V. ORDERS**

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), CEMEX is hereby exempted from the requirements to obtain a permit and license under ORC Chapter 3734 and the rules promulgated thereunder, or comply with OAC Chapters 3745-27 and 3745-37 pertaining to operation and final closer of a solid waste incinerator or solid waste energy recovery facility, in order to conduct engineered fuel test burns, provided CEMEX complies with the Ohio EPA authorization dated June 14, 2011.
2. This exemption shall expire on October 31, 2012.

#### **VI. OTHER CLAIMS**

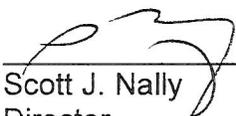
Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the Facility.

#### **VII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to CEMEX or the Facility.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
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Scott J. Nally  
Director