Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

August 25, 2011

Sent by Electronic Mail – Received Receipt Requested

Mr. Jim Daniel, Plant Manager
CEMEX Construction Materials Florida, LLC
Brooksville, FL 34614

Re: Exemption from the Requirement to Obtain an Air Construction Permit
CEMEX Construction Materials Florida, LLC, Brooksville North Cement Plant
Project No. 0530010-044-AC
Temporary Transport, Handling, Storage and Grinding Operation

Dear Mr. Daniel:

On August 22, 2011, CEMEX Construction Materials Florida, LLC submitted an electronic mail request for revision in the location of the temporary transport, handling, storage and grinding operation of the alternative fuels. Brooksville South Cement Plant under Permit No. 0530021-031-AC was authorized for short-term trial burns of the alternative fuels. The existing CEMEX Brooksville North Cement Plant is located in Hernando County at 16301 Ponce De Leon Boulevard in Brooksville, Florida. The permittee requested to use the limestone storage building for the storage and grinding of alternative fuels and allow any covered area at the North plant for the same purpose. The emissions from the transport, storage, handling and grinding operation were evaluated and allowed by Permit No. 0530021-031-AC.

Permit No. 0530021-031-AC approved an electric or diesel-powered shredder of approximately 630 horsepower for the grinding operation. It is estimated that material suppliers will deliver approximately 30 truckloads per month of alternative fuels to the Brooksville North Cement Plant for grinding, assuming 20 tons per truck. The distance between the two plants is approximately 8 miles. The grinding operation is allowed for any covered area at the North Plant. The transport, storage, handling and grinding operation is an insignificant pollutant-emitting activity as it does not cause the facility to exceed any major source thresholds. As required in Permit No. 0530021-031-AC, the plant shall prevent fugitive dust caused by any alternative fuel materials from leaving the property. Based on these circumstances, the Department will exempt this activity from the requirement to obtain an air construction permit. The applicant need not amend the Title V air operation until it is opened for some other cause.

Determination: Pursuant to Rule 62.4.040(1)(b) of the Florida Administrative Code (F.A.C.) and for the reasons stated above, the Office of Permitting and Compliance determines that the activity will not emit air pollutants, "… in sufficient quantity, with respect to its character, quality or content, and the circumstances surrounding its location, use and operation, as to contribute significantly to the pollution problems within the State, so that the regulation thereof is not reasonably justified." Therefore, the project is exempt from the requirement to obtain an air construction permit. This determination may be revoked if the proposed activity is substantially modified or the basis for the exemption is determined to be materially incorrect. A copy of this letter shall be maintained at the site of the proposed activity. This permitting decision is made pursuant to Chapter 403, Florida Statutes.

Permitting Authority: Applications for air construction permits are subject to review in accordance with the

provisions of Chapter 403, Florida Statutes (F.S.) and Chapters 62-4, 62-210 and 62-212, F.A.C. The Permitting Authority responsible for making a permit determination for this project is the Office of Permitting and Compliance in the Department of Environmental Protection's Division of Air Resource Management. The Permitting Authority's physical address is: 111 South Magnolia Drive, Suite #4, Tallahassee, Florida. The Permitting Authority's mailing address is: 2600 Blair Stone Road, MS #5505, Tallahassee, Florida 32399-2400. The Permitting Authority's telephone number is 850/717-9000.

Petitions: A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed with (received by) the agency clerk in the Office of General Counsel of the Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000 (Telephone: 850/245-2241). Petitions must be filed within 21 days of receipt of this exemption from air permitting requirements. A petitioner shall mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Permitting Authority's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner; the name, address and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of when and how each petitioner received notice of the agency action or proposed decision; (d) A statement of all disputed issues of material fact. If there are none, the petition must so state; (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action including an explanation of how the alleged facts relate to the specific rules or statutes; and, (g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the agency to take with respect to the agency's proposed action. A petition that does not dispute the material facts upon which the Permitting Authority's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Permitting Authority's final action may be different from the position taken by it in this permitting action. Persons whose substantial interests will be affected by any such final decision of the Permitting Authority on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation: Mediation is not available in this proceeding.

Effective Date: This permitting decision is final and effective on the date filed with the clerk of the Permitting Authority unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant to Rule 62-110.106, F.A.C., and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301, F.A.C. Upon timely filing of a petition or a request for extension of time, this action will not be effective until further order of the Permitting Authority.

Judicial Review: Any party to this permitting decision (order) has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure

with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice must be filed within 30 days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida.

_____
Jeffery F. Koerner, Program Administrator
Office of Permitting and Compliance
Division of Air Resource Management

JFK/scd

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Exemption from Air Construction Permitting was sent by electronic mail, or a link to these documents made available electronically on a publicly accessible server, with received receipt requested before the close of business on _____ to the persons listed below.

Mr. Jim Daniel, Cement Plant Manager, CEMEX (jdaniel@cemexusa.com)
Mr. George Townsend, Environmental Manager, CEMEX (gtownsend@cemexusa.com)
Mr. Max Lee, Koogler and Associates, Inc. (mlee@kooglerassociates.com)
Mr. Qi Zhang, P.E., Koogler and Associates, Inc. (qzhang@kooglerassociates.com)
Ms. Cindy Zhang-Torres, DEP Southwest District Office (cindy.zhang-torres@dep.state.fl.us)
Ms. Lynn Scearce, DEP OPC Reading File (lynn.scearce@dep.state.fl.us)

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated agency clerk, receipt of which is hereby acknowledged.

_____ _____
(Clerk) (Date)