



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

G. Gholson

MAR 21 2011

Sent Via Certified Mail  
7008 1830 0002 6279 7336  
Return Receipt Requested

Mr. Robert Aldenhuisen  
Environmental Manager  
Cemex Construction Materials Pacific, LLC  
PO Box 697  
Pleasanton, CA 94566

Subject: Findings of Violation and Order for Compliance  
EPA Docket No. CWA-309(a)-11-002

Dear Mr. Aldenhuisen:

On September 8, 2010, representatives of the U.S. Environmental Protection Agency (EPA) conducted a Clean Water Act compliance inspection of Cemex' Port of San Francisco facility (the Facility). A copy of EPA's inspection report identifying, among other deficiencies, the Facility's failure to comply with the monitoring and reporting requirements of the State's General Permit (CAS000001) is enclosed.

Based on the inspection, EPA today issues the enclosed Findings of Violation and Order for Compliance (Order) requiring Cemex to take specific actions to bring the Facility into compliance with the Clean Water Act, including the following:

1. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with the Storm Water Discharge Visual Observation requirements of the General Permit; and
2. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with the Storm Water Sampling and Analysis requirement of the General Permit.

If you have any questions concerning this matter, please contact Greg Gholson of my staff at (415) 947-4209.

Sincerely yours,

*Alexis Strauss* 21 March 2011  
Alexis Strauss, Director  
Water Division

Enclosures

cc: R. Berman, Port of San Francisco  
C. Boschen, San Francisco Bay RWQCB

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9**

75 Hawthorne Street  
San Francisco, California 94105

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**IN THE MATTER OF:**

**Cemex Construction Materials Pacific,  
LLC**  
500 Amador Street  
San Francisco, CA 94124-1250

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)  
) Docket No. CWA 309(a)-11-002  
)

) **FINDINGS OF VIOLATION**  
) **AND**  
) **ORDER FOR COMPLIANCE**

) Proceedings under Section 308(a) and 309(a)  
) of the Clean Water Act, as amended, 33  
) U.S.C. Sections 1318(a), and 1319(a)

**STATUTORY AUTHORITY**

The following Findings of Violation are made and Order for Compliance (Order) issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Sections 308(a) and 309(a)(3), (a)(4), and (a)(5)(A) of the Clean Water Act, as amended (the Act or CWA), 33 U.S.C. §§ 1318(a), and 1319(a)(3), (a)(4), and (a)(5)(A). This authority has been delegated to the Regional Administrator of EPA, Region 9 and re-delegated by the Regional Administrator to the Director of the Water Division of EPA, Region 9. Notice of this action has been given to the State of California.

**FINDINGS OF VIOLATION**

1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States, except in compliance with the Act, including Section 402, 33 U.S.C. § 1342.
2. Section 402 of the Act, 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (NPDES) program. Under Section 402, 33 U.S.C. § 1342, EPA and states with EPA-approved NPDES programs are authorized to issue permits governing the discharge of pollutants from regulated sources.
3. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and EPA's implementing regulations at 40 CFR § 122.26, require NPDES permit authorization for discharges of storm water associated with industrial activity. Facilities engaged in industrial activity, as defined by 40 CFR § 122.26(b)(14), must obtain NPDES permit authorization if they discharge or propose to discharge storm water into waters of the United States. Pursuant to 40 CFR



§§ 122.26(a)(1)(ii) and 122.26(c), dischargers of storm water associated with industrial activity are required to apply for an individual permit or to seek coverage under a promulgated storm water general permit.

4. Ready-mixed concrete facilities, Standard Industrial Classification (SIC) 3273, fall under SIC Industry Group 323, and pursuant to 40 CFR § 122.26(b)(14)(xi), is an industrial activity subject to the discharge and permitting requirements under Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 308(a) of the Act, 33 U.S.C. § 1318(a), and its implementing regulations authorize EPA to, inter alia, require the owner or operator of any point source to establish records, make reports, or submit other reasonably required information, including individual and general NPDES permit applications.
6. The State of California has an EPA-approved NPDES program and issues permits, including storm water permits, through its State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards (Regional Boards). The permit that is currently effective, General Permit No. CAS000001, Water Quality Order No. 97-03-DWQ (General Permit) was adopted on April 17, 1997.
7. The General Permit requires facility operators to develop and implement a storm water pollution prevention plan (SWPPP) prior to commencing industrial operations. (General Permit, Section A(1)(a), pg. 11.) The purpose of the SWPPP is to identify sources of industrial storm water pollution and to identify and implement site-specific best management practices (BMPs) to control discharges.
8. The SWPPP must include, inter alia, a narrative description of the storm water BMPs to be implemented at the facility for each potential pollutant and its source as well as a site map (or maps) that identifies: (a) facility boundaries and an outline of facility drainage areas, (b) the storm water collection and conveyance system, (c) an outline of impervious areas, (d) locations where materials are directly exposed to precipitation, and (e) areas of industrial activity. (General Permit, Section A(4), pg. 12, 13 and Section A(8), pg. 17.)
9. Facility operators must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges using best available technology economically achievable (BAT) for toxic pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. (General Permit, Effluent Limitation B(3), pg. 4.)
10. Facility operators must develop a written monitoring program and must conduct quarterly visual observations of non-storm water discharges, monthly visual observations of storm water events, and prescribed storm water sampling and analysis. (General Permit, Section B(1), (3), (4), and (5), pg. 24-27.) In addition, facility operators must submit an annual report to the Regional Board that summarizes visual observations and sampling and provides a comprehensive site compliance evaluation. (General Permit, Section B(14),

pg. 35.) A copy of the written monitoring program as well as records of inspections, steps taken to reduce or prevent discharges, and the annual report must be maintained for at least five years and must be available at the facility for review by facility employees or inspectors. (General Permit, Section B(13), pg. 34.)

11. Cemex Construction Materials Pacific, LLC (Cemex or Respondent) is a Delaware limited liability company and is thus a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).
12. Respondent submitted a notice of intent to comply (NOI) with the terms of the General Permit to the State Board on or about September 1, 2006. The State Board assigned Waste Discharge Identification (WDID) Number 2 38I020464 to Respondent for the Facility on September 20, 2006.
13. Respondent operates a facility within the boundaries of the Port of San Francisco located at 500 Amador Street, Pier 92, in San Francisco, CA (Facility). Respondent is engaged in the manufacturing and sale of ready mix concrete, activities classified under SIC 3273, and is thus subject to the requirements of the General Permit.
14. Storm water runoff at the Facility flows into three storm drains on-site and three storm drains located adjacent to the Facility that flow to Islais Creek and then to the San Francisco Bay.
15. Storm water discharged from the Facility contains “pollutants,” including industrial waste, as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), and is storm water discharge associated with industrial activity as defined by EPA regulations in 40 CFR § 122.26(b)(14).
16. The San Francisco Bay is a “navigable water” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and a “water of the United States” as defined by EPA regulations in 40 CFR § 122.2.
17. Portions of the San Francisco Bay have been listed under Section 303(d) of the Act, 33 U.S.C. § 1313(d), as an impaired water body for chlordane, DDT, dieldrin, dioxin compounds, furan compounds, invasive species, mercury, PCBs, and Trash.
18. On September 8, 2010, representatives of EPA inspected the Facility to evaluate Respondent’s compliance with the General Permit. The inspection report is attached and incorporated by reference, and contains evidence that Respondent:
  - a. Failed to comply with the Monitoring Program and Reporting Requirements (Monitoring Program) of the General Permit (General Permit, Section B, pg. 24-45), including:
    1. Failure to visually observe storm water discharges, at all discharge locations, from one storm event per month during the 2009/2010 wet season (Oct 1 –



May 30), as required by the General Permit (General Permit, Section B(4), pg.25); and

2. Failure to collect storm water samples from all discharge locations, as required by the General Permit (General Permit, Section B(5), pg. 26).
19. Based on the foregoing, EPA has determined that Respondent has violated the CWA as follows:
    - a. Respondent's failure to implement an adequate Monitoring Program while engaged in industrial activity at the Facility violated the General Permit (General Permit, Provision E(3) pg. 6, and Section B, pg. 24-45), which was issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and thus violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

### **ORDER FOR COMPLIANCE**

Considering the foregoing Findings of Violations and the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to the authority of Sections 308 and 309 of the Act, 33 U.S.C. §§ 1318 and 1319, Respondent is hereby ordered to comply with the following requirements:

20. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with all terms and conditions of the General Permit.
21. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with the Storm Water Discharge Visual Observation and Sampling and Analysis requirements of the General Permit. Additionally, Respondent shall:
  - a. Submit monthly storm water compliance reports, no later than the 5<sup>th</sup> of each month for the remainder of the current wet season (upon receipt of this Order – May 30, 2010), documenting all storm water visual observation dates, locations observed, observations, response taken to reduce or prevent pollutants in storm water discharges, and analytical results from all storm water samples collected and analyzed during the preceding month.
22. Within 45 days of the receipt of this Order, Respondent shall submit a report to EPA on the costs associated with: revising the SWPPP, projected incremental annual costs associated with implementing the revised SWPPP, revised the Monitoring Program, projected incremental annual costs associated with implementing the revised Monitoring Program, and any other costs associated with complying with this Order.
23. All reports submitted pursuant to this Order must be signed by a principal executive officer, ranking elected official, or duly authorized representative of Respondent (as specified by 40 CFR § 122.22 (b)(2)) and shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

24. All submissions requested by this Order shall be mailed to the following address:

U. S. Environmental Protection Agency - Region 9  
Clean Water Act Compliance Office WTR-7  
75 Hawthorne Street  
San Francisco, CA 94105  
Attention: Greg Gholson

All telephone inquiries should be made to Greg Gholson, Environmental Scientist, at (415) 972-4209.

25. Respondents shall send a copy of all submissions required under this Order to:


San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
Attention: Christine Boschen

26. This Order shall be binding upon Respondent and its officers, directors, agents, employees, heirs, successors, and assigns.
27. This Order is not a permit under the CWA, and does not waive or modify Respondent's obligation and responsibility to ascertain and comply with all applicable federal, state, or local laws, regulations, ordinances, permits, or licenses.
28. This Order is not to be deemed an election by EPA to forgo any remedies available to it under the law, including without limitation, any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act. EPA reserves all rights and remedies, legal and equitable, available to enforce any violations cited in this Order and to enforce this Order.
29. Requests for information contained within this Order are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a "collection of information" within the meaning of 44 U.S.C. § 3502(3). It is directed to



fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c)(1) and 5 CFR § 1320.4(a)(2).

30. Respondent may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated, under 40 CFR Part 2, Subpart B, regulations to protect confidential business information it receives. If legally supportable, a claim of business confidentiality may be asserted in the manner specified by 40 CFR § 2.203(b) for all or part of the information requested by EPA. EPA will disclose business information covered by such claim only as authorized under 40 CFR Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.
31. Section 309(a), (b), (d) and (g) of the Act, 33 U.S.C. § 1319(a), (b), (d) and (g), provides administrative and/or judicial relief for failure to comply with the CWA. In addition, Section 309(c) of the Act, 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA and for knowingly making false statements.
32. This Order shall become effective upon the date of receipt by Respondent.

  
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Alexis Strauss, Director  
Water Division

  
\_\_\_\_\_  
Date





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

## Background Information

National Database Information		General	
Inspection Type	Industrial	Inspector Name	US EPA: Greg Gholson (lead); Rebecca Glyn; Rick Sakow; Jamey Watt
WDID Number	2_- 381020464	Telephone	(415) 947-4209
Inspection Date	September 8, 2010	Entry Time	2:00 pm
	U.S. EPA	Exit Time	4:00 pm
Facility Type/SIC	3273 (Ready-Mixed Concrete)	Signature	

Facility Location Information				
Name/Location/ Mailing Address	Cemex – Bay Area Ready Mix Division Pier 92, 500 Amador Street San Francisco, CA 94124			
GPS Coordinates	Latitude	37 44'45.60"N	Longitude	122 22'57.65"W
Receiving Water(s)	Islais Creek			
	Name	Telephone		
Owner	Cemex	(415) 643-2948 (main)		
Operator	Ricardo Mendez Area Manager	(415) 643-2944 (office) (415) 643-2941 (fax) (650) 576-4046 (mobile)		

Basic Permit Information <i>(bold one)</i>			Summary Site Evaluation*	
Permit Coverage	<b>Y</b>	N	Permit Coverage	<b>S</b>
Permit Type	<b>General</b>	Individual	SWPPP <i>(field review)</i>	<b>M</b>
Copy of SWPPP on Site?	<b>Y</b>	N	Records <i>(review includes maintenance, inspection training logs)</i>	<b>S</b>
Copy of permit on site?	<b>Y</b>	N	SWPPP <i>(implementation)</i>	<b>U</b>

\*Use the following codes: (S=Satisfactory, M=Marginal, U=Unsatisfactory, N=Not Evaluated)





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

## SWPPP Implementation

<u>General</u>	
<b>Industrial Activity</b>	Cemex' Amador Street facility is a ready-mixed concrete batch plant. Cemex self-identified 3273 as the standard industrial classification (SIC) code applicable to its operations on the Notice of Intent for storm water permit coverage submitted to the State Water Resources Control Board.
<b>Facility Description</b>	<p>According to Cemex' Area Manager, Richardo Mendez, potential storm water pollutants on-site include: aggregate/cement/fly ash; iron; concrete add-mixtures/fiber/color; dilute acids; and petroleum products/oil &amp; grease (TSS/TDS, Fe, pH, TOC).</p> <p>The entire facility is paved and is approximately 3 acres in size and relatively new, such that it was designed and constructed to incorporate storm water controls. Typical operating hours are Monday thru Friday 9-15 hrs/day, Saturday 8-12 hrs/day and Sunday job specific hours only.</p> <p>The facility appeared relatively flat, but according to the facility map included in the September 10, 2010 version of its Storm Water Pollution Prevention Plan (SWPPP), receives storm water run-on from Amador Street via the exit gate and discharges storm water run-off from its material storage area #2 and mixer truck staging area to two off-site storm drain inlets located on the shared easement adjacent to the facility to the east. A third off-site storm drain inlet is located on Amador Street adjacent to the facility's exit gate. The Amador Street inlet may receive a small volume of storm water flow from the area surrounding the facility's exit gate. All off-site storm drains discharge to Islais Creek. All other storm water flow is discharged to three on-site storm drains that discharge to Islais Creek, is channelized, treated and reused on-site, or is pumped to a 10,000 gallon storage tank for reuse or, if necessary, trucked to West Oakland for discharge to an approved East Bay Municipal Utility District facility.</p>

<u>Storm Water Controls</u>	
<b>List the structural and non-structural controls employed by the facility.</b>	<p>The structural storm water controls observed at the facility included: storage of fine granular solids in enclosed silos, hoppers and material storage bunkers; cover and containment of potential pollutants in the facility's equipment maintenance shop, hazardous materials storage area and above-ground fuel storage tank; a "baghouse" dust collection system; rock pad wheel cleaner (track-out control); berms, curbs, swales, and channel drains; and process water settling basins.</p> <p>The non-structural storm water controls observed at the facility included: routine sweeping and cleaning (good housekeeping); covering and cleaning storm drain inlets in the dry season; and preventative equipment maintenance.</p>





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

<p><b>Are the controls reasonable and appropriate for the facility?</b></p>	<p>The facility's process, maintenance and truck/mixer wash-off areas appeared adequately contained such that storm water flows are contained and recycled back into the concrete batch plant.</p> <p>The facility's mixer truck parking area discharges storm water to storm water inlets #1 and #2. Routine facility sweeping appeared adequate to minimize the discharge of fine sediment to these inlets. However, fluid leaks from mixer trucks not adequately cleaned-up (photos IMGP1759 and IMGP1760) resulted in the potential for pollutants to become mobilized during rain events and discharged via inlets #1 and #2. This concern was communicated to Mr. Mendez during the inspection.</p> <p>Material storage area #1 was identified as an area of concern by the EPA inspection team due to insufficient BMPs to control discharge of fine sediment from the facility's aggregate bunkers into storm water inlet #3 (photo IMGP1764). This concern was communicated to Mr. Mendez during the site inspection. Additionally, accumulated sediment was observed off-site adjacent to the wharf access gate, on the shared easement, (photo IMGP1769) and would likely be mobilized in a storm event and discharge via sheet flow to Islais Creek. Islais Creek borders the facility to the north and flows approximately 1/3 mile until it drains into the San Francisco Bay.</p> <p>The EPA inspection team identified three off-site storm drains that receive storm water discharges from the facility and discharge to Islais Creek (two located on the easement bordering the facility to the east, and the third located on Amador Street near the facility's exit gate). Cemex maintains storm drain inlet filters for all three off-site storm drains. However, additional BMPs (e.g. roll-over berms) are needed to reduce Cemex' contribution of pollutants in storm water sheet flow off material storage area #2 to the two off-site storm drains located on the easement. This concern was also communicated to Mr. Mendez during the site inspection.</p>
<p><b>Are the controls maintained in effective operating condition?</b></p>	<p>All storm water controls observed in place during the inspection appeared to be installed correctly and maintained in effective operating conditions. Mr. Mendez explained that the process water containment basins are cleaned annually before the onset of the rainy season.</p> <p>Mr. Mendez further explained that facility maintains a 10,000 gallon process water storage tank to provide additional water storage capacity. In the event of a significant storm event, the facility pumps process/storm water into its storage tank and if necessary into water tankers for transport and discharge into the sanitary sewer.</p>





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

<b>Good Housekeeping</b>	<p>According to Mr. Mendez, Cemex conducts daily sweeping of the entire facility. Given the industrial activity, the facility appeared relatively clean.</p> <p>Cemex operates a maintenance shop on-site. All maintenance activities are conducted under cover in the maintenance shop. All lubricants are stored in the maintenance shop within secondary containment. All waste lubricants are stored within secondary containment under cover in a modified shipping container.</p> <p>The maintenance shop manager explained that preventative maintenance is performed on all mixer trucks to avoid leaks and break-downs. He explained that the leak from the mixer truck observed by the EPA inspection team would be addressed immediately.</p>
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<u>Miscellaneous</u>	
<b>Non-Storm Water Discharges</b>	NA
<b>Any evidence of Non-Storm water Discharge?</b>	NA
<b>Do the storm water inlets correspond with site map?</b>	Yes

### SWPPP Review *(can be completed in office)*

<u>General</u>			<u>Notes:</u>
Does the SWPPP contain the signature of a responsible party?	Y	N	<p>The SWPPP reviewed during the inspection was dated July 26, 2010. Following the inspection, Cemex revised its SWPPP and submitted an updated SWPPP dated September 10, 2010. The SWPPP reviewed in this report is the revised September 10, 2010 document.</p> <p>Copies of both the July 26, 2010 and September 10, 2010 SWPPPs provided to EPA were not signed by Cemex.</p>
Is an individual/team responsible for	Y	N	The storm water pollution prevention team members for





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

developing/implementing SWPPP identified (e.g. pollution prevention team)?			this facility are identified by positions.
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<u>Site Map and Narrative</u>		Notes:	
Is there a site map?	Y	N	
Drainage patterns/outfalls?	Y	N	The site map identifies all on-site storm water drain inlets and drainage patterns, as well as the easement adjacent to the facility to the east, Islais Creek to the north, Amador Street to the south and all off-site storm drains likely to receive storm water discharges from the facility.
Identification of types of pollutants likely to be discharged from each drainage area?	Y	N	The facility's drainage areas and associated pollutants likely to be discharged from each are as follows: mixer truck parking area (TSS, pH, Oil and Grease, and Iron); material storage area #1 (TSS, pH, Oil and Grease, and Iron); concrete batch plant and associated process areas (TSS, pH, Oil and Grease, Iron, and chemical admixtures); and a mixer truck staging area (TSS, pH, Oil and Grease, and Iron).
Location of major structural controls used to reduce pollutants in runoff?	Y	N	Primary structural controls observed included: perimeter and roll-over berms to segregate process / storage / maintenance areas of the facility and manage runoff; containment structures such as silos, hoppers and bunkers to prevent storm water from coming in contact with raw materials; covered maintenance shop and hazardous materials storage areas; covered above ground fuel storage tank with secondary containment; a baghouse collection system to reduce air emissions or pollutants; process water containment / recycle basins; rock basin wheel cleaner; swales and trench trains to capture and recycle process and storm water; and storm drain inlet filters.
Name of receiving water(s) listed?	Y	N	Islais Creek
Location of significant materials exposed to storm water?	Y	N	
List of significant spills and leaks, description of response taken, and actions to prevent similar spills in the future?	Y	N	According to the facility's SWPPP, there have been "no reportable spills within the last 3 years."





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

Location of fueling, maintenance, loading and unloading, material storage, waste disposal?	Y	N	
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<u>Summary of Potential Pollutant Sources</u>		Notes:	
Description of activities, materials, features of site with potential to contribute significant amounts of pollutants to storm water?	Y	N	Section 4 of facility SWPPP and Appendix F.

<u>Storm Water Controls</u>		Notes:	
Does the SWPPP describe the <i>non-structural</i> controls that will be used to prevent/reduce discharge of pollutants in storm water runoff?	Y	N	Appendix E identifies dry weather evaluation of all storm water outfalls for the presence of non-storm water discharges as a non-structural BMP. Appendix F identifies: sweeping & cleaning, equipment maintenance, and employee training as additional non-structural BMPs implemented at the facility.
Does the SWPPP describe the <i>structural</i> controls that will be used to prevent/reduce discharge of pollutants in storm water runoff?	Y	N	Appendix F describes use of enclosed silos, hoppers, and bunkers to prevent storm water from contacting potential pollutants; a dust suppression system to minimize fugitive dust generation; berms, curbs, channels and rock filters to minimize storm water run-on and run-off; and a drive through rock basin to minimize track-out.
Does the SWPPP describe other controls that will be used to prevent/reduce off-site tracking or blowing of sediment, dust and raw, final or waste materials, or other solid materials and floating debris?	Y	N	Appendix F describes containment of cement and fly ash in enclosed silos, hoppers, and other structures, use of dust collection systems (i.e. a baghouse), routine sweeping, and use of a drive through rock basin as BMPs in place to control off-site tracking/blowing of sediment and dust.
Does the SWPPP incorporate baseline controls (good housekeeping, minimizing exposure, PM, spill prevention/response procedures, routine inspections and comprehensive site evaluations, employee training, sediment and erosion control, runoff management)?	Y	N	Section 5 of the SWPPP describes the “baseline best management practices,” while Appendix F includes an outline of the baseline BMPs implemented at the facility.  Erosion and sediment controls are noted as Not Applicable – as the “entire site is paved.” Routine inspections and comprehensive site evaluations are discussed within Sections 6 and 7 and Appendix G.
Does the SWPPP contain completed			The SWPPP contains model reporting forms and





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

inspection reports/logs regarding reportable implementation baseline controls?	Y	N	inspection checklists. No completed reporting forms or inspection checklists were requested from Cemex during the inspection.
Does the SWPPP describe the pollutant or activity to be controlled by each selected control and provide an implementation schedule?	Y	N	The SWPPP includes implementation schedules for BMPs to achieve compliance with both the CA. Industrial General Permit and Civil Case No. C 09-04832CW (Baykeeper v. Cemex).

<u>Non-Storm Water Discharges</u>		Notes:	
Does the SWPPP describe methods to prevent non-storm water discharges?	Y	N	
Does the SWPPP describe the monitoring process for non-storm water discharges (quarterly dry weather screening)?	Y	N	Section 3.6 and Appendix E of the SWPPP describe dry weather storm drain and drainage area inspections as the primary means the facility uses to prevent non-storm water discharges.

<u>Monitoring</u>		Notes:	
Is the Facility conducting monitoring as required (monthly wet weather observations, twice yearly sampling)?	Y	N	<p><u>Visual Observations</u> The permit requires monthly wet weather visual observations of storm water discharges during the first hour of discharge at all discharge locations. Cemex' Sampling &amp; Analysis plan (Appendix G, Attachment 4) identifies five sample locations (SW1 through SW5) corresponding to three on-site drain inlets and two locations where storm water discharges via sheet flow to storm drain inlets located on the shared easement.</p> <p>Review of the facility's 2009/2010 annual report indicates that monthly storm water visual observations were only performed at one (unidentified) storm water discharge location during the preceding wet season.</p> <p><u>Sampling and Analysis</u> The permit also requires operators to collect storm water samples at all discharge locations during the first hour of discharge from 1) the first storm event of the wet season, and 2) at least one other storm event in the wet season.</p> <p>Review of the facility's 2009/2010 storm water sampling records indicate that samples were collected from the "parking lot drain" (i.e. SW1) on November 6, 2009 and</p>



## NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

		<p>December 12, 2009; and from the "Marco Belt" area (i.e. SW3) on January 18, 2010 and March 12, 2010. The facility's SWPPP map identifies SW2 as substantially identical to SW1. For this reason, SW2 has been excluded from annual wet weather sampling.</p> <p>The facility failed, however, to collect storm water samples from SW4 and SW5. SW4 and SW5 represent approximate locations where storm water discharges via sheet flow to storm drain inlets located on the shared easement to the east of the facility.</p>
<p>Does the SWPPP discuss benchmark monitoring and responses to any monitoring with results over benchmark values?</p>	<p>Y    N</p>	<p>Appendix G of the SWPPP ("Action Plan for Benchmark &amp; Target Level Exceedances") describes the review/evaluation and actions required in response to a benchmark exceedance.</p> <p>All storm water samples analyzed during the 2009/2010 wet season produced results over benchmark values for both total suspended solids (TSS) and iron (Fe). Results for these pollutants ranged from 120-510 and 11-25 mg/L, respectively. Benchmark values for TSS and Fe are 100 mg/L and 1 mg/L, respectively.</p> <p>Neither the facility's SWPPP nor its 2009/2010 annual report includes details as to the facility's response to benchmark exceedances.</p>





# NPDES Industrial Storm Water Investigation and Case Development Worksheet (CA Industrial)

Photograph Log	
1.	IMGP1751 - Cemex Environmental Center
2.	IMGP1752 - Cemex Environmental Center – Personnel Information
3.	IMGP1753 - Cemex Environmental Center – Posted Site Map
4.	IMGP1754 - Northern Perimeter Berm/Fence-Line, Mixer Truck Parking (looking east)
5.	IMGP1755 - Northern Perimeter Berm/Fence-Line, Mixer Truck Parking (looking west)
6.	IMGP1756 - Storm Drain Inlet (SW1)
7.	IMGP1757 - Close-up of SW1
8.	IMGP1758 - Storm Drain Inlet (SW1)
9.	IMGP1759 - Oil and Grease Leaks under Parked Mixer Truck
10.	IMGP1760 - Oil and Grease Leaks under Parked Mixer Truck
11.	IMGP1761 - SW3 in Foreground , Conveyors in Background
12.	IMGP1762 - Barge / Material Conveyor
13.	IMGP1763 - Radial Stacker / Material Storage Area 1 (looking southeast)
14.	IMGP1764 - Radial Stacker / Material Storage Area 1 (looking southwest)
15.	IMGP1765 - Radial Stacker / Material Storage Area 1 (looking southwest)
16.	IMGP1766 - Radial Stacker / Material Storage Area 1 (looking southwest)
17.	IMGP1767 - Rollover Berm / Wharf Access Gate
18.	IMGP1768 - Sediment Accumulation (northeast corner of facility)
19.	IMGP1769 - Sediment Accumulation on Easement (looking north)
20.	IMGP1770 - Sediment Accumulation on Easement (looking south)
21.	IMGP1771 - Easement (looking northeast)
22.	IMGP1772 - Easement, off-site drop inlets (looking north)
23.	IMGP1773 - 6,000 Gallon Diesel AST in Secondary Containment and under Cover
24.	IMGP1774 - Process Water Containment / Recycling Basins
25.	IMGP1775 - Process Water Containment / Recycling Basins
26.	IMGP1776 - Rock Pad Wheel Cleaner (Track-out Control)
27.	IMGP1777- Off-Site Drop Inlet adjacent to Exit Gate







# Environmental Center

San Francisco "Alameda" Ready Mix Plant  
SAN FRANCISCO PLANT #17711, Source 1-14  
Bay Area Air Quality Management District

**PERMIT REQUIREMENT**

Equipment Categories  
Cement, Dry Mix, Ready Mix Concrete

San Francisco "Alameda" Ready Mix Plant  
09/08/2010 02:06PM

**PERMIT REQUIREMENT**

Equipment Categories  
Cement, Dry Mix, Ready Mix Concrete

IMGP1751

## SAFETY & ENVIRONMENTAL EMERGENCY COORDINATORS

Call an Emergency Coordinator to Report:  
Accidents - Spills - Water leaks or Air Release - Gasoline -  
And Other Safety or Environmental Incidents

NAME	POSITION	TELEPHONE NOS.
Bob McMillan	Maintenance Manager <small>San Jose Ready Mix Plant</small>	(925) 706-3301
Ricardo Mendes	Area Manager <small>27 Avenue &amp; Marlene Ready Mix</small>	4151 643-2544 (850) 574-4648 (cell)
Mike Karmatz	Regional Safety Manager	(925) 333-4957 (cell)
Roy Akendjwyan	Environmental Manager	(925) 426-2281 (925) 888-8684 (cell)
Louis Schipper	Environmental	(916) 943-2020 (925) 873-3936 (cell)
<b>ADDITIONAL CONTACTS</b>		
Corporate Safety Department	Marco Rodriguez <small>Director, Health &amp; Safety</small>	Office: (808) 974-5647
Corporate Environmental Department	Jenell Kretschyk <small>Director, Environment Team</small>	Office: (713) 723-5942

## SAN FRANCISCO "AMADOR" READY MIX PLANT STORMWATER Best Management Practices

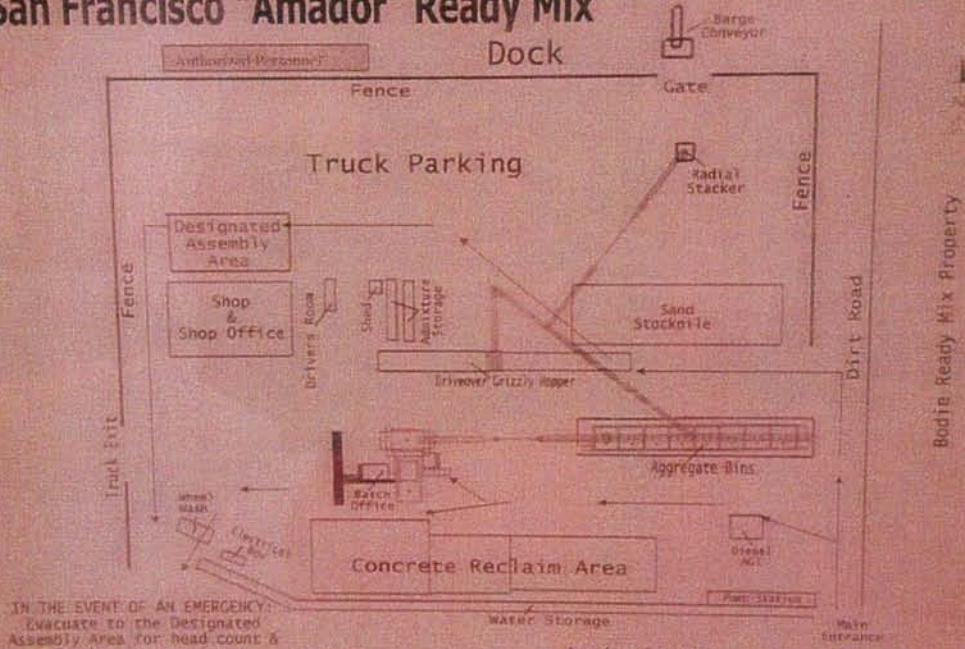
POTENTIAL POLLUTANT	BEST MANAGEMENT PRACTICES
Dust	<ul style="list-style-type: none"> <li>• Check &amp; service baghouses</li> <li>• Apply water to dirt roads</li> <li>• Good housekeeping</li> </ul>
Hazardous Materials	<ul style="list-style-type: none"> <li>• Stored under cover</li> <li>• Secondary containment</li> <li>• Inspections</li> <li>• Preventive maintenance on plant equipment and vehicles</li> <li>• Good housekeeping</li> </ul>
pH	<ul style="list-style-type: none"> <li>• Monitor process water in sump</li> <li>• Good housekeeping</li> </ul>

05/08/2016 02:06PM

IMGP1752



**CEMEX**  
**San Francisco "Amador" Ready Mix**



IN THE EVENT OF AN EMERGENCY:  
 EVACUATE TO THE DESIGNATED  
 ASSEMBLY AREA FOR HEAD COUNT &  
 FURTHER INSTRUCTIONS

Amador Street  
 08/08/2010 02:06PM

IMGP1753



IMGP1754





IMGP1755



IMGP1756





IMGP1757



IMGP1758





IMGP1759



IMGP1760





IMGP1761



IMGP1762





IMGP1763



IMG1764





IMG1765



IMG1766





IMGP1767



IMGP1768





IMGP1769



IMGP1770





IMGP1771



IMG1772





IMGP1773



IMGP1774





IMGP1775



IMG1776





IMGP1777





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9**

75 Hawthorne Street  
San Francisco, California 94105

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<b>IN THE MATTER OF:</b>	)	Docket No. CWA 309(a)-11-002
	)	
<b>Cemex Construction Materials Pacific, LLC</b>	)	<b>FINDINGS OF VIOLATION</b>
500 Amador Street	)	<b>AND</b>
San Francisco, CA 94124-1250	)	<b>ORDER FOR COMPLIANCE</b>
	)	
	)	Proceedings under Section 308(a) and 309(a)
	)	of the Clean Water Act, as amended, 33
	)	U.S.C. Sections 1318(a), and 1319(a)

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**STATUTORY AUTHORITY**

The following Findings of Violation are made and Order for Compliance (Order) issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Sections 308(a) and 309(a)(3), (a)(4), and (a)(5)(A) of the Clean Water Act, as amended (the Act or CWA), 33 U.S.C. §§ 1318(a), and 1319(a)(3), (a)(4), and (a)(5)(A). This authority has been delegated to the Regional Administrator of EPA, Region 9 and re-delegated by the Regional Administrator to the Director of the Water Division of EPA, Region 9. Notice of this action has been given to the State of California.

**FINDINGS OF VIOLATION**

1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States, except in compliance with the Act, including Section 402, 33 U.S.C. § 1342.
2. Section 402 of the Act, 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (NPDES) program. Under Section 402, 33 U.S.C. § 1342, EPA and states with EPA-approved NPDES programs are authorized to issue permits governing the discharge of pollutants from regulated sources.
3. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and EPA’s implementing regulations at 40 CFR § 122.26, require NPDES permit authorization for discharges of storm water associated with industrial activity. Facilities engaged in industrial activity, as defined by 40 CFR § 122.26(b)(14), must obtain NPDES permit authorization if they discharge or propose to discharge storm water into waters of the United States. Pursuant to 40 CFR

§§ 122.26(a)(1)(ii) and 122.26(c), dischargers of storm water associated with industrial activity are required to apply for an individual permit or to seek coverage under a promulgated storm water general permit.

4. Ready-mixed concrete facilities, Standard Industrial Classification (SIC) 3273, fall under SIC Industry Group 323, and pursuant to 40 CFR § 122.26(b)(14)(xi), is an industrial activity subject to the discharge and permitting requirements under Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 308(a) of the Act, 33 U.S.C. § 1318(a), and its implementing regulations authorize EPA to, inter alia, require the owner or operator of any point source to establish records, make reports, or submit other reasonably required information, including individual and general NPDES permit applications.
6. The State of California has an EPA-approved NPDES program and issues permits, including storm water permits, through its State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards (Regional Boards). The permit that is currently effective, General Permit No. CAS000001, Water Quality Order No. 97-03-DWQ (General Permit) was adopted on April 17, 1997.
7. The General Permit requires facility operators to develop and implement a storm water pollution prevention plan (SWPPP) prior to commencing industrial operations. (General Permit, Section A(1)(a), pg. 11.) The purpose of the SWPPP is to identify sources of industrial storm water pollution and to identify and implement site-specific best management practices (BMPs) to control discharges.
8. The SWPPP must include, inter alia, a narrative description of the storm water BMPs to be implemented at the facility for each potential pollutant and its source as well as a site map (or maps) that identifies: (a) facility boundaries and an outline of facility drainage areas, (b) the storm water collection and conveyance system, (c) an outline of impervious areas, (d) locations where materials are directly exposed to precipitation, and (e) areas of industrial activity. (General Permit, Section A(4), pg. 12, 13 and Section A(8), pg. 17.)
9. Facility operators must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges using best available technology economically achievable (BAT) for toxic pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. (General Permit, Effluent Limitation B(3), pg. 4.)
10. Facility operators must develop a written monitoring program and must conduct quarterly visual observations of non-storm water discharges, monthly visual observations of storm water events, and prescribed storm water sampling and analysis. (General Permit, Section B(1), (3), (4), and (5), pg. 24-27.) In addition, facility operators must submit an annual report to the Regional Board that summarizes visual observations and sampling and provides a comprehensive site compliance evaluation. (General Permit, Section B(14),



pg. 35.) A copy of the written monitoring program as well as records of inspections, steps taken to reduce or prevent discharges, and the annual report must be maintained for at least five years and must be available at the facility for review by facility employees or inspectors. (General Permit, Section B(13), pg. 34.)

11. Cemex Construction Materials Pacific, LLC (Cemex or Respondent) is a Delaware limited liability company and is thus a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).
12. Respondent submitted a notice of intent to comply (NOI) with the terms of the General Permit to the State Board on or about September 1, 2006. The State Board assigned Waste Discharge Identification (WDID) Number 2 38I020464 to Respondent for the Facility on September 20, 2006.
13. Respondent operates a facility within the boundaries of the Port of San Francisco located at 500 Amador Street, Pier 92, in San Francisco, CA (Facility). Respondent is engaged in the manufacturing and sale of ready mix concrete, activities classified under SIC 3273, and is thus subject to the requirements of the General Permit.
14. Storm water runoff at the Facility flows into three storm drains on-site and three storm drains located adjacent to the Facility that flow to Islais Creek and then to the San Francisco Bay.
15. Storm water discharged from the Facility contains “pollutants,” including industrial waste, as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), and is storm water discharge associated with industrial activity as defined by EPA regulations in 40 CFR § 122.26(b)(14).
16. The San Francisco Bay is a “navigable water” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and a “water of the United States” as defined by EPA regulations in 40 CFR § 122.2.
17. Portions of the San Francisco Bay have been listed under Section 303(d) of the Act, 33 U.S.C. § 1313(d), as an impaired water body for chlordane, DDT, dieldrin, dioxin compounds, furan compounds, invasive species, mercury, PCBs, and Trash.
18. On September 8, 2010, representatives of EPA inspected the Facility to evaluate Respondent’s compliance with the General Permit. The inspection report is attached and incorporated by reference, and contains evidence that Respondent:
  - a. Failed to comply with the Monitoring Program and Reporting Requirements (Monitoring Program) of the General Permit (General Permit, Section B, pg. 24-45), including:
    1. Failure to visually observe storm water discharges, at all discharge locations, from one storm event per month during the 2009/2010 wet season (Oct 1 –

May 30), as required by the General Permit (General Permit, Section B(4), pg.25); and

2. Failure to collect storm water samples from all discharge locations, as required by the General Permit (General Permit, Section B(5), pg. 26).

19. Based on the foregoing, EPA has determined that Respondent has violated the CWA as follows:
  - a. Respondent's failure to implement an adequate Monitoring Program while engaged in industrial activity at the Facility violated the General Permit (General Permit, Provision E(3) pg. 6, and Section B, pg. 24-45), which was issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and thus violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

### **ORDER FOR COMPLIANCE**

Considering the foregoing Findings of Violations and the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to the authority of Sections 308 and 309 of the Act, 33 U.S.C. §§ 1318 and 1319, Respondent is hereby ordered to comply with the following requirements:

20. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with all terms and conditions of the General Permit.
21. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with the Storm Water Discharge Visual Observation and Sampling and Analysis requirements of the General Permit. Additionally, Respondent shall:
  - a. Submit monthly storm water compliance reports, no later than the 5<sup>th</sup> of each month for the remainder of the current wet season (upon receipt of this Order – May 30, 2010), documenting all storm water visual observation dates, locations observed, observations, response taken to reduce or prevent pollutants in storm water discharges, and analytical results from all storm water samples collected and analyzed during the preceding month.
22. Within 45 days of the receipt of this Order, Respondent shall submit a report to EPA on the costs associated with: revising the SWPPP, projected incremental annual costs associated with implementing the revised SWPPP, revised the Monitoring Program, projected incremental annual costs associated with implementing the revised Monitoring Program, and any other costs associated with complying with this Order.
23. All reports submitted pursuant to this Order must be signed by a principal executive officer, ranking elected official, or duly authorized representative of Respondent (as specified by 40 CFR § 122.22 (b)(2)) and shall include the following statement:



“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

24. All submissions requested by this Order shall be mailed to the following address:

U. S. Environmental Protection Agency - Region 9  
Clean Water Act Compliance Office WTR-7  
75 Hawthorne Street  
San Francisco, CA 94105  
Attention: Greg Gholson

All telephone inquiries should be made to Greg Gholson, Environmental Scientist, at (415) 972-4209.

25. Respondents shall send a copy of all submissions required under this Order to:

San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
Attention: Christine Boschen

26. This Order shall be binding upon Respondent and its officers, directors, agents, employees, heirs, successors, and assigns.
27. This Order is not a permit under the CWA, and does not waive or modify Respondent's obligation and responsibility to ascertain and comply with all applicable federal, state, or local laws, regulations, ordinances, permits, or licenses.
28. This Order is not to be deemed an election by EPA to forgo any remedies available to it under the law, including without limitation, any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act. EPA reserves all rights and remedies, legal and equitable, available to enforce any violations cited in this Order and to enforce this Order.
29. Requests for information contained within this Order are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a “collection of information” within the meaning of 44 U.S.C. § 3502(3). It is directed to

fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c)(1) and 5 CFR § 1320.4(a)(2).

30. Respondent may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated, under 40 CFR Part 2, Subpart B, regulations to protect confidential business information it receives. If legally supportable, a claim of business confidentiality may be asserted in the manner specified by 40 CFR § 2.203(b) for all or part of the information requested by EPA. EPA will disclose business information covered by such claim only as authorized under 40 CFR Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.
31. Section 309(a), (b), (d) and (g) of the Act, 33 U.S.C. § 1319(a), (b), (d) and (g), provides administrative and/or judicial relief for failure to comply with the CWA. In addition, Section 309(c) of the Act, 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA and for knowingly making false statements.
32. This Order shall become effective upon the date of receipt by Respondent.

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Alexis Strauss, Director  
Water Division

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Date