

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 11 SEP 13 AM 10:56
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)

Griffin Pipe Products Company, Inc.)
2601 9th Avenue)
Council Bluffs, Iowa 51501)

Respondent.)

Proceedings under Section 309(a) of the)
Clean Water Act, 33 U.S.C. § 1319(a))
_____)

Docket No. CWA-07-2011-0105

FINDINGS OF VIOLATION,
ORDER FOR COMPLIANCE

Preliminary Statement

1. The following Findings of Violation and Order for Compliance (Order) are made and issued pursuant to the authority of Section 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a)(3). This authority has been delegated by the Administrator of the U. S. Environmental Protection Agency (EPA), to the Regional Administrator, EPA, Region 7 and further delegated to the Director of Region 7's Water, Wetlands and Pesticides Division.

2. Respondent is Griffin Pipe Products Company, Inc., a company registered under the laws of Iowa and authorized to conduct business in the state of Iowa.

Statutory and Regulatory Framework

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to that Section.

4. The CWA prohibits the discharge of "pollutants" from a "point source" into a "navigable water" of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

5. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater. Section 402(p) of the CWA requires, in part, that a discharge of stormwater associated with an industrial activity must conform to the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of the CWA.

6. Pursuant to Section 402(p) of the CWA, EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

7. 40 C.F.R. § 122.26(a)(1)(ii) and 122.26(c) requires dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

8. 40 C.F.R. § 122.26(b)(14)(vi) defines "stormwater discharge associated with industrial activity," in part, as "the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant." A facility classified as Standard Industrial Classification 33 is considered to be engaging in "industrial activity" for purposes of paragraph (b)(14)(ii).

9. The Iowa Department of Natural Resources (IDNR) is the state agency with authority to administer the federal NPDES program in Iowa pursuant to Section 402 of the CWA. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

10. The IDNR implemented a General Permit for the discharge of stormwater under the NPDES Permit No. 1 on October 1, 2007. The permit governs stormwater discharges associated with industrial activity.

Factual Background

11. Respondent corporation is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

12. At all times relevant to this action, Respondent was the owner and/or operator of a foundry that is an industrial facility engaged in the manufacturing of ductile iron pipe. The facility is known as Griffin Pipe Products, Inc. and located at 2601 9th Avenue, Council Bluffs, Iowa 51501 (the Site) with a SIC code of 3321.

13. Stormwater, snow melt, surface drainage, and runoff water from the west storage yard area of the facility flows overland and into several area drains and manholes along the west service road. The line connecting these manholes leads north into the gasket shed basement

where the stormwater is commingled with the treated process wastewater and pumped out to the 9th Avenue storm sewer which discharges into the Missouri River about 1-1/2 miles west of the plant. Roof drains from the main building and area drains 3 and 4 along a main drive just west of the from office drain into a curb inlet on 9th Avenue between 26th and 27th Streets. The line is intercepted by a parallel storm sewer line and is conveyed to the gasket shed basement. There are two other stormwater outfalls that are not identified in the facility's permit. The runoff and drainage from Respondent's facility is "stormwater" as defined by 40 C.F.R. § 122.26(b)(13).

14. Stormwater contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

15. The Site has "stormwater discharges associated with industrial activity" as defined by 40 C.F.R. § 122.26(b)(14)(x), and is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

16. Respondent discharges pollutants into "navigable waters" as defined by CWA Section 502, 33 U.S.C § 1362.

17. Stormwater runoff from Respondent's industrial activity results in the addition of pollutants from a point source to navigable waters, and thus is the "discharge of a pollutant" as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

18. Respondent's discharge of pollutants associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(ii), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

19. On or about September 18, 2007, Respondent submitted an Notice of Intent for coverage under Iowa General Permit No. 1.

20. Authorization to discharge under the facility's NPDES permit number 1125-0888 for the foundry was issued on October 1, 1992 by IDNR and coverage is provided through October 1, 2012.

21. On March 14 and 15, 2011, EPA performed an inspection of the Site under the authority of Section 308(a) of the CWA, 33 U.S.C. § 318(a). The purpose of the inspection was to evaluate compliance with the CWA.

Findings of Violation

Failure to Install Best Management Practices

22. The facts stated in paragraphs 11 through 21 above are herein incorporated.

23. The permit, Part III, Section C, Stormwater Pollution Plans (SWPPP), requires that the plan identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from the facility. The plan must identify and ensure implementation of (best management) practices which will be used to reduce pollutants in stormwater discharges. Facilities must implement provisions of the SWPPP required under this part as a condition of the permit.

24. EPA's inspection on March 14-15, 2011 revealed six drums of spent solvent awaiting pickup in the paved area on the east side of the production building. This area clearly drained to an area drain. The drums were on wooden pallets with no secondary containment.

25. EPA's inspection on March 14-15, 2011 revealed two square tanks about 200 gallons each containing used oil and lubricant about fifty feet west of an area drain that were awaiting pickup. There was no best management practice (BMP) to prevent potentially polluted stormwater runoff from entering the area drain.

26. The Respondent's failure to install BMPs as required by the permit is a violation of the permit and the CWA.

Failure to Conduct Required Sampling

27. Part V. Monitoring and Reporting Requirements of the permit specify the monitoring and reporting required of permit holders and the frequency of such monitoring and reporting.

28. Part V.B.2.A in the permit states that Primary Metal Industries must monitor for oil and grease, five day biochemical oxygen demand, chemical oxygen demand, total suspended solids (TSS), total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, total phosphorus, pH, total lead, total cadmium, total copper, total arsenic, total chromium, and any pollutant limited in an effluent guideline to which the facility is subject, the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the size of the drainage area and an estimate of the runoff coefficient of the drainage area.

29. Part V.B.2.B in the permit states that sampling shall be conducted at least annually

(one time per year) for each facility except as provided by V.B.4.

30. EPA's inspection on March 14-15, 2011, revealed that sample(s) were not collected in 2010 at the facility's permitted outfall.

31. EPA's March 14-15, 2011 inspection also revealed that there are at least two previously unidentified stormwater outfalls in addition to the one into where the gasket shed basement discharges. The Respondent's SWPPP does not describe sampling to meet the requirement for annual monitoring from any outfalls other than in the gasket shed basement. There are no records of sampling from any location other than those taken at the gasket shed basement.

32. The Respondent's failure to conduct sampling required by the permit is a violation of the permit and the CWA.

Failure to Conduct Required Employee Training

33. Part III.C.4.B.8 in the permit requires the permittee to conduct employee training programs that shall inform personnel at all levels of responsibility of the components and goals of the SWPPP. Training should address topics such as spill response, good housekeeping, and material management practices. A pollution prevention plan shall identify periodic dates for such training.

34. The inspector was told during the March 14-15, 2011, inspection that such a training program had not been developed.

35. The Respondent's failure to develop and conduct training as required by the permit is a violation of the permit.

Failure to Retain Records

36. Part V.E.1 in the permit states that the permittee shall retain a copy of the SWPPP, records of all monitoring information, copies of all reports required by the permit, and records of all data used to complete the Notice of Intent . . . for a period of at least three years from the date of the measurement, report, inspection, etc.

37. EPA's inspection on March 14-15, 2011, revealed that the records required to be kept have not been kept, including versions of the SWPPP prior to the 2009 SWPPP.

Failure to Conduct and Record Visual Inspections

38. Part III.C.4.C in the permit requires that qualified personnel shall inspect designated equipment and plant areas at appropriate intervals specified in the plan but no less than once a year.

39. Part III.C.4.C(1) in the permit requires that material handling areas and other potential sources of pollution identified in the plan in accordance with paragraph III.C.4.A. of this permit shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Structural stormwater management measures, sediment and control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

40. Part III.C.4.C(3) in the permit requires that a report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with paragraph III.C.4.C(2) of the permit shall be made and retained as part of the SWPPP for at least three years. The report shall be signed in accordance with Part VI.G of the permit.

41. EPA's inspection on March 14-15, 2011, revealed that the Respondent failed to conduct inspections of all stormwater controls specified in the SWPPP and all equipment needed to implement the SWPPP. The Respondent further failed to record the inspections of the stormwater controls and related equipment.

Inadequate SWPPP

42. Part III.C.4.B of the permit states, "Each facility covered by this permit shall develop a description of stormwater management controls appropriate to the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. . . ."

43. The SWPPP available for review during the inspection contained a list of some of the practices employed onsite but did not describe structural controls such as the berm around the Hydromation building, oil water separators and the baffles and submerged control pipes in the gasket shed building that contain settled solids and floating grease.

44. Part III.C.4(A)1 of the permit requires the site SWPPP to include a site map showing an outline of the drainage area of each stormwater outfall; each existing structural control measure to reduce pollutants to stormwater runoff; and each surface water body.

45. The SWPPP available for review during the inspection indicates there is an Attachment A which includes the site map. It was not available for review during the inspection and has not since been provided. The Respondent provided a site plan produced in 2008 but it is not complete. It does not include a description of two stormwater outfalls identified by the inspector that do not lead to the gasket shed. The gasket shed is the only outfall identified in the SWPPP. It also does not show all structural controls including the oil water separators and the berm around the Hydromation building.

46. Part III.C.4(B)3 of the permit requires that the SWPPP describe a preventive maintenance program that involves inspection and maintenance of stormwater management devices as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

47. The SWPPP available for review during the inspection states only that "preventive maintenance checks will be performed on equipment to catch leaks and potential failures or breakdowns." The SWPPP does not identify the equipment that will be maintained nor a schedule for maintenance or procedures for deciding when clean outs are needed and how they will be performed.

48. Part III.C of the permit, SWPPP, states:

The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from the facility. The plan shall describe and ensure the implementation of practices which will be used to reduce pollutants in stormwater discharges . . .

49. The SWPPP available for review during the inspection and observations made by the inspector during the March 14-15, 2011 inspection reveal that the SWPPP does not identify the used oil drums or the 200 gallon tanks on the east side of the production building south of the main entrance as a potential source of pollutants.

50. The SWPPP failures identified above are violations of the permit held by the Respondent and of the CWA.

Order For Compliance

51. Based on the Factual Background and Findings of Violation set forth above, and pursuant to the authority of Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), Respondent is hereby ORDERED to take the actions described in paragraphs 52 through 54.

52. Within thirty (30) days of the Effective Date, as defined in Paragraph 61 herein, Respondent shall take all corrective action that is necessary to correct the deficiencies, eliminate, and prevent recurrence of the violations cited in this Order and to come into compliance with all of the applicable requirements of its Permit. A report describing the steps taken to achieve compliance with the permits shall be submitted per paragraphs 55 and 56 below by the thirtieth (30th) day following the effective date of the Order.

53. Within forty-five (45) days of the Effective Date, Respondent shall thoroughly revise the facility SWPPP in accordance with the requirements of the permit. A copy of the revised SWPPP shall be submitted per paragraphs 55 and 56 below by the forty-fifth (45th) day following the effective date of the Order.

54. From the Effective Date, as defined in Paragraph 61 herein, until terminated by EPA, the Respondent shall submit annually, no later than January 31 for the previous calendar year, to IDNR with a copy to EPA, all monitoring and sampling information required by General Permit No. 1. The Respondent shall also submit annually, no later than January 31 to IDNR with a copy to EPA, copies of the inspection reports created by the Respondent and all records required by the permit. These documents shall be submitted in accordance with Paragraphs 55 and 56, below.

Submissions

55. All documents required to be submitted to EPA by this Order, shall be submitted by mail to:

Ms. Cynthia Sans
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
901 North Fifth Street
Kansas City, Kansas 66101.

56. A copy of documents required to be submitted to IDNR by this Order, shall be submitted by mail to:

Ms. Holly Vandemark
Field Office #4
Iowa Department of Natural Resources
1401 Sunnyside Lane
Atlantic, Iowa 50022.

General Provisions

Effect of Compliance with the Terms of this Order for Compliance

57. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

58. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Section 309(b), (c), (d) or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d) or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

59. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect Respondent's facility, and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

Severability

60. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Effective Date

61. The terms of this Order shall be effective and enforceable against Respondent upon the date of their receipt of an executed copy of the Order.

Termination

62. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. EPA. Such notice shall not be given until all of the requirements of this Order have been met.

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Issued this 12th day of September, 2011.



Karen A. Flournoy
Acting Director
Water, Wetlands and Pesticides Division



Anne Rauch
Assistant Regional Counsel
Office of Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Order for Compliance to the Regional Docket Clerk United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance by first class, certified mail, return receipt requested, to:

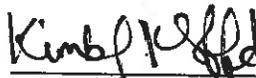
Mr. Ray Ostrowski
Corporate Environmental Manager
Griffin Pipe Products Company, Inc.
1400 Opus Place, Suite 700
Downers Grove, Illinois 60515

and by regular, first class mail to:

Mr. Dennis Ostwinkle, Supervisor
Field Office #6
Iowa Department of Natural Resources
1023 West Madison Street
Washington, Iowa 52353-1623.

SEP 13 2011

Date



Sender