

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7  
2019 APR 24 AM 10:09

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

IN THE MATTER OF )  
)  
) Docket No. CWA-07-2018-0329  
)  
Bruening Rock Products, Inc. )  
)  
) AMENDMENT TO  
Respondent. ) FINDINGS OF VIOLATION  
) AND ORDER FOR COMPLIANCE ON  
) CONSENT  
)  
Proceedings under Section 309(a)(3) )  
of the Clean Water Act, )  
33 U.S.C. § 1319(a)(3) )  
\_\_\_\_\_ )

1. The parties to the above captioned Administrative Order on Consent (2018 Order), Respondent Bruening Rock Products, Inc. (“Bruening” or “Respondent”) and the United States Environmental Protection Agency, Region 7 (“EPA”), entered into the captioned Order in 2018 for compliance actions at Respondent’s facility located near Knoxville, Iowa (“S&S Mine”). Since that date, EPA has obtained information that indicates that certain of the violations at the S&S Mine (Count 2, unauthorized discharges of industrial stormwater) referenced in the 2018 Order may also be present at other Bruening facilities located within Iowa. To address this potential non-compliance with the Clean Water Act, the Respondent hereby agrees to amend the terms of the 2018 Order (“Amendment”) to establish a schedule to conduct an additional evaluation of CWA compliance at other such facilities, as set forth below.

**ADDITIONAL COMPLIANCE ACTIONS**

2. Within 120 days of the effective date of this Amendment, Respondent shall take the following actions:
  - a. Prepare a list of all facilities in Iowa owned and/or operated by Respondent or its related companies (e.g., Skyline Construction, etc.) that currently operate under the authority of General Permit 5 (“GP 5”) issued by the Iowa Department of Natural Resources (“IDNR”);
  - b. For each facility described by Paragraph 2.a, above, Respondent shall evaluate whether the facility discharges industrial stormwater to a water of the United States that is not already authorized by the existing GP 5 permit for the facility;

- c. The evaluation performed by Respondent, as required by Paragraph 2.b, above, shall include, but not be limited to, an evaluation of the following:
    - i. available aerial photographs;
    - ii. precipitation data;
    - iii. topographical maps; and
    - iv. interviews of facility personnel regarding discharges of industrial stormwater during precipitation events.
  - d. For each facility that Respondent determines discharges industrial stormwater occur that are not subject to GP 5, Respondent shall obtain authorization for unpermitted discharges of industrial stormwater by submittal of a Notice of Intent (“NOI”) to discharge to IDNR.
3. Within 150 days of the effective date of this Amendment, Respondent shall submit to EPA and IDNR a Compliance Review report that documents the completion of the actions required by Paragraph 2, above, and that shall include the following information:
  - a. The list of facilities described pursuant to Paragraph 2.a, above;
  - b. A list of the facilities for which Respondent has submitted NOIs for permit authorization to IDNR, pursuant to Paragraph 2.d, above; and
  - c. For each facility listed pursuant to Paragraph 2.a where, after the evaluation required by Paragraph 2.c, Respondent is not seeking an NOI and additional permit authorization for industrial stormwater discharges that are not currently subject to GP 5, a detailed description of the basis for the Respondent’s determination that no additional permit authorization is required.
4. EPA may provide comments to Respondent on the submittal required by Paragraph 3, above. At EPA’s sole discretion, further extensions of the compliance deadlines for the Order, as amended herein, may be made by EPA by written notice to Respondent without further formal amendment to the Order.
5. This Amendment is hereby incorporated into and directly enforceable as part of the 2018 Order, and any further written modifications of compliance requirements and/or deadlines by EPA shall also be incorporated into and enforceable as part of the 2018 Order. All other provisions of the 2018 Order shall remain fully effective and enforceable. Further, EPA reserves the right to undertake enforcement action for violations of the 2018 Order, as hereby amended, and the CWA.

**Effective Date**


6. The terms of this Amendment shall be effective and enforceable against Respondent upon signature by the EPA Region 7's, Director of the Water, Wetland and Pesticides Division. All dates for compliance and submittals shall be calculated from the Effective Date.

### **Termination**

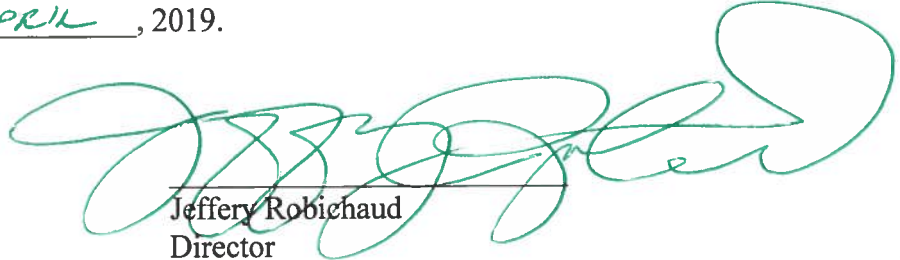
7. The 2018 Order as hereby amended shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

For Bruening Rock Products, Inc.

Date: 4/22/19

By:   
Name: \_\_\_\_\_  
Title: President

Issued this 2nd day of April, 2019.



Jeffery Robichaud  
Director  
Water, Wetlands and Pesticides Division



Howard Bunch  
Senior Assistant Regional Counsel  
Office of Regional Counsel

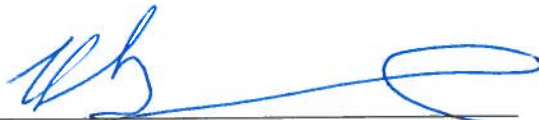
CERTIFICATE OF SERVICE

I certify that on the date noted below I filed the original and one true and correct copy of the signed original Amendment to the Administrative Order on Consent for Compliance (Docket No. CWA-07-2018-0329) with the Regional Hearing Clerk, U.S. Environmental Protection Agency Region VII, 11201 Renner Boulevard, Lenexa, Kansas 66219.

I further certify that on the date noted below I sent by email and certified mail, return receipt requested, a true and correct copy of the signed original Amendment to the Administrative Order on Consent for Compliance to the designated representatives of Bruening Rock Products, Inc.

Ronald D. Fadness  
General Counsel  
The Bruening Companies  
P.O. Box 127  
900 Montgomery Street  
Decorah, IA 52101

4/24/2019  
Date

  
Name