

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
C & C Screening, Inc.) Administrative Order
a.k.a. Conklin Aggregates)
) EPA-5-02-113(a) MI-02
)
Proceeding Under)
Section 113(a)(3) of)
the Clean Air Act,)
42 U.S.C. § 7413(a)(3))

Administrative Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to C & C Screening, Inc. (C & C) under Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing standards of performance for new sources (New Source Performance Standard or NSPS) under Section 111 of the Act, 42 U.S.C. § 7411.

3. Under Section 111 of the Act, the Administrator promulgated the NSPS for nonmetallic mineral processing plants at 40 C.F.R. §§ 60.670 through 60.676. The NSPS for nonmetallic mineral processing plants applies to affected facilities which were constructed after August 31, 1983, as provided at 40 C.F.R. § 60.670(e). This includes portable sand and gravel and crushed stone plants with cumulative rated capacities greater than 150 tons per hour, as provided at 40 C.F.R. § 60.670(c).

4. Under Section 111 of the Act, the Administrator promulgated the NSPS - General Provisions at 40 C.F.R. §§ 60.1 through 60.19. The NSPS - General Provisions apply to affected facilities subject to the NSPS, including those facilities subject to 40 C.F.R. §§ 60.670 through 60.676.

5. The NSPS, at 40 C.F.R. § 60.8(a), requires the owner or operator of any affected facility to conduct performance testing on each affected facility, no later than 180 days after initial startup.

6. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the NSPS regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

7. C & C owns and operates a portable concrete crushing plant, State Registration Number N6909.

8. The portable plant is an affected facility as defined at 40 C.F.R. § 60.670(a)(1).

9. The plant is subject to 40 C.F.R. § 60.670 through 60.676 and the testing requirement at 40 C.F.R. § 60.8(a).

10. C & C's portable concrete crushing plant was constructed and began operation on April 1, 2000.

11. Pursuant to 40 C.F.R. § 60.8(a), the plant was required to conduct performance tests on all affected facilities by October 1, 2000.

12. On August 2, 2001, U.S. EPA issued to C & C Screening, Inc., a finding of violation (FOV) alleging that C & C failed to conduct a performance test, thus violating the NSPS performance testing requirement at 40 C.F.R. § 60.8(a).

13. C & C failed to respond to the August 2, 2001, FOV.

Compliance Program

14. Within 30 days of the effective date of this Order, C & C shall conduct performance testing on all affected facilities at the portable concrete crushing plant pursuant to 40 C.F.R. § 60.8 and according to the protocol outlined in Appendix A.

15. C & C must send all reports required by this Order, and Appendix A, to U.S. EPA within the time frames prescribed in this Order and Appendix A. All information and reports shall be sent to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604.

General Provisions

16. This Order does not affect C & C's responsibility to comply with other local, state, and federal laws and regulations.

17. This Order does not restrict U.S. EPA's authority to enforce Section 111 of the Act, or any other section of the Act.

18. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Sections 113 of the Act, 42 U.S.C. § 7413, for C & C's violation of the NSPS performance testing requirements.

19. Failure to comply with this Order may subject C & C to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

20. The terms of this Order are binding on C & C, its assignees and successors. C & C must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that C & C has given the notice.

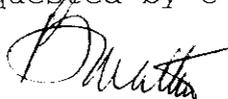
21. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

22. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

23. Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), states that an Order shall not take effect until the person to whom it is issued has had an opportunity to confer with U.S. EPA about the alleged violation. Therefore, U.S. EPA is giving C & C an opportunity to confer with U.S. EPA concerning this Order. C & C may schedule a conference with U.S. EPA by calling Michelle Farley, Environmental Engineer, at (312) 886-6778, within 7 days of C & C's receipt of this Order. This Order shall become effective within 10 days of C & C's receipt of this Order, whether or not a conference is requested by C & C.

1-2-02

Date



Bharat Mathur, Director
Air and Radiation Division

Enclosure

APPENDIX A

PERFORMANCE TESTING PROTOCOL FOR C & C SCREENING, INC.

- I. The following information shall be submitted to U.S. EPA no later than 15 days prior to the scheduled test date, for review and approval, and to afford U.S. EPA an opportunity to have a representative present during the test.
 - A. The name and street address of the plant.
 - B. The scheduled testing date.
 - C. Name, title, and telephone number of contact person at the plant.
 - D. Name and telephone number of person conducting performance test.
 - E. A list of all affected facilities to be tested. Include a plant diagram showing the expected configuration of the plant on the test date.
 - F. The expected production rate of the plant on the test date. The production rate for the test must be the maximum achievable production rate for the plant. Explain any discrepancy between the maximum achievable production rate and the maximum design rated capacity of the plant.
 - G. The type of material to be crushed during the test.
- II. The following test methods, procedures, and conditions must be followed during the performance test.
 - A. The plant must be tested at "worst case" conditions, as follows:
 1. The plant must be operated at 100 percent of the maximum achievable production rate of the equipment.
 2. The plant must be producing or processing a product representative of the highest emission potential.
 3. The test shall be conducted so as to allow sufficient time since the last precipitation to ensure that the rock/stone is dry.
 4. The plant shall be operated without water sprays or any other pollution control equipment during the performance test.
 - B. No major rehabilitation or cleaning other than routine maintenance procedures shall be conducted on the plant and the equipment to be tested from the effective date of this Order to the date of the performance test.

- C. For fugitive emissions from transfer points on belt conveyors or from any other affected facility, and fugitive emissions from crushers at which no capture system is used, testing shall be conducted in accordance with Reference Method 9 and the procedures set forth in 40 C.F.R. § 60.11 and 40 C.F.R. § 60.675(c).
 - D. For fugitive emissions from the affected facilities described in 40 C.F.R. § 60.672(b), not including crushers, the duration of the Method 9 observations may be reduced from 3 hours to 1 hour only if the following conditions are met: I) there are no individual readings greater than 10 percent opacity; and ii) there are no more than 3 readings of 10 percent for the 1-hour period. If those conditions are not met, Method 9 observations must be conducted for 3 hours.
 - E. For fugitive emissions from crushers at which a capture system is not used, as described in 40 C.F.R. § 60.672(c), the duration of the Method 9 observations may be reduced from 3 hours to 1 hour only if the following conditions are met: I) there are no individual readings greater than 15 percent opacity; and ii) there are no more than 3 readings of 15 percent for the 1-hour period. If those conditions are not met, Method 9 observations must be conducted for 3 hours.
 - F. Method 9 observations shall be conducted on no more than 3 emission points at a time, during any time period during the performance test.
- III. Within 15 days after the performance test date, one complete written test report shall be submitted to U.S. EPA. The test report shall include the conditions under which the test was run, as outlined in paragraph II.A., all Method 9 observation sheets generated during the test, and proof of current visible emission observer certification.

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent the Administrative Consent Order, EPA Order No. EPA-5-02-113(a) MI-02, by Certified Mail, Return Receipt Requested, to:

Pat Gladney, Attorney
9880 E. Grand River
Suite 106
Brighton, Michigan 48116

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. EPA-5-02-113(a) MI-02, First Class Mail to:

Dennis Drake, Chief
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909

Timothy McGarry, Chief
Enforcement Unit
Air Quality Division
Michigan Department of Environmental Quality
P.O. box 30260
Lansing, Michigan 48909

Mike Koryto, Supervisor
Shiawassee District
Air Quality Division
Michigan Department of Environmental Quality
10650 Bennett Drive
Morrice, Michigan 48857

on the 7th day of January 2002.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9586 2071