

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Consumers Concrete Corporation)	FINDING OF VIOLATION
700 Nazareth Road)	
Kalamazoo, Michigan)	EPA-5-01-MI-10
)	
PROCEEDINGS PURSUANT TO)	
THE CLEAN AIR ACT,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

Finding of Violation

The United States Environmental Protection Agency finds that Consumers Concrete Corporation (Consumers) violated Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e), at its plant at 700 Nazareth Road, Kalamazoo, Michigan (Nazareth Road Plant). Specifically, Consumers violated the New Source Performance Standards (NSPS) General Provisions at 40 C.F.R. Sections 60.7 and 60.8, and the NSPS for Nonmetallic Mineral Processing Plants at 40 C.F.R. Part 60, Subpart 000, as follows:

Regulatory Authority

1. The NSPS for Nonmetallic Mineral Processing Plants at 40 C.F.R. Part 60, Subpart 000, applies to the following affected facilities, which commenced construction, reconstruction, or modification after August 31, 1983, in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage gin, enclosed truck or railcar loading stations.
2. "Affected facility" under the NSPS means, with reference to a stationary source, any apparatus to which a standard is applicable. 40 C.F.R. § 60.2.
3. The NSPS at 40 C.F.R. § 60.676(a) (1) requires each owner or operator seeking to comply with § 60.670(d) to submit to the Administrator certain information about the existing facility being replaced and the replacement piece of equipment. 40 C.F.R. § 60.670(d) states that when an existing facility is replaced by a piece of equipment of equal or smaller size (rated capacity in tons per hour), having the same function as the existing facility, the new facility is exempt from the provisions of Sections 60.672, 60.674, and 60.675, unless all equipment is being replaced.
4. The NSPS at 40 C.F.R. § 60.7(a) (1) requires owners or operators subject to the NSPS to furnish to the Administrator written notification of the

date construction of an affected facility is commenced postmarked no later than 30 days after such date.

5. The NSPS at 40 C.F.R. § 60.7(a)(2) requires owners or operators subject to the NSPS to furnish to the Administrator a written notification of the anticipated date of the initial startup of an affected facility postmarked not more than 30 days prior to such date.
6. The NSPS at 40 C.F.R. § 60.7(a)(3) requires owners or operators subject to the NSPS to furnish to the Administrator a written notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
7. The NSPS at 40 C.F.R. § 60.8(a), requires that within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not more than 180 days after initial startup of the facility, the owner or operator of the facility shall conduct performance test(s) and furnish the Administrator a written report of the results of the performance test(s).

Consumer's Nazareth Road Plant

8. Consumers owns and operates a sand and gravel plant designated as the Nazareth Road Plant at 700 Nazareth Road, Kalamazoo, Michigan.
9. Consumers' Nazareth Road Plant is subject to the requirements of the NSPS at 40 C.F.R. § 60.7(a)(1) - (3), § 60.8(a), and § 60.676(a)(1), because it replaced several affected facilities at the plant after August 31, 1983.

Violations

10. In 1987, Consumers replaced an existing 3' X 6' 2-deck screen with a new 4' X 10' 2-deck screen of larger size. Consumers violated the NSPS at 40 C.F.R. § 60.7(a)(1), § 60.7(a)(2), and § 60.7(a)(3) because it did not provide the Michigan Department of Environmental Quality a notification of the actual date of construction, the anticipated date of startup and the actual date of startup of the new screen until July 27, 1999.
11. Consumers violated the NSPS at 40 C.F.R. § 60.8(a), because it did not conduct a performance test on the new screen at the Nazareth Road Plant until July 27, 1999.
12. In 1988, Consumers replaced an existing 4' X 8' 2-deck screen with a screen of equal size. Consumers violated the NSPS at 40 C.F.R. § 60.676(a)(1) because it did not provide the proper notification of replacement.

13. In 1998, Consumers replace two existing conveyors with three new conveyors of equal size. Consumers violated the NSPS at 40 C.F.R. § 60.676(a) (1) because it did not provide the proper notification of replacement.

1-5-00

Date



Bharat Mathur, Director
Air and Radiation Division