



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 29 2005

REPLY TO THE ATTENTION OF  
(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Jennifer Berke Levin, Senior Counsel  
Rohm and Haas  
100 Independence Mall West  
Philadelphia, Pennsylvania 19106-2399

Dear Ms. Levin:

Enclosed is a file stamped Consent Agreement and Final Order  
(CAFO) which resolves Morton International, Inc. CAA-05-2005-006  
As indicated by the filing stamp on its first page, we filed the  
CAFO with the Regional Hearing Clerk on SEP 29 2005.

Pursuant to paragraph 35 of the CAFO, Morton International, Inc.  
must pay the civil penalty within 30 days of SEP 29 2005.  
Your check must display the case docket number, CAA-05-2005-006  
and the billing document number, 054305034.

Please direct any questions regarding this case to Jose C.  
de Leon, Associate Regional Counsel at (312) 353-7456.

Sincerely yours,

William MacDowell, Chief  
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:

Morton International, Inc.  
Rittman, Ohio,

Respondent.

) Docket No. GAA-05-2005-0061

)  
) Proceeding to Assess a Civil  
) Penalty under Section 113(d)  
) of the Clean Air Act,  
) 42 U.S.C. § 7413(d)

RECEIVED  
REGION 5  
SEP 29 3:10 PM

RECEIVED  
REGION 5

Consent Agreement and Final Order

1. This is a civil administrative action instituted and settled pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brings this administrative action seeking civil penalties under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).
3. The Respondent is Morton International, Inc. (Morton), a corporation doing business in the State of Ohio.

Statutory and Regulatory Background

4. Section 111(e) of the Act, 42 U.S.C. § 7411(e), provides that after the effective date of standard of performance promulgated under Section 111, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.
5. Section 111(a)(2) of the Act, 42 U.S.C. § 7411(a)(2), defines the term "new source" as any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed

regulations) prescribing a standard of performance under Section 111 which will be applicable to such source.

6. Construction or modification is "commenced" when an owner or operator of a stationary source undertakes "a continuous program of construction or modification," or enters into a "contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification." 40 C.F.R. § 60.2.
7. U.S. EPA promulgated 40 C.F.R. Part 60, Subpart 000, Standards of Performance for Nonmetallic Mineral Processing Plants (40 C.F.R. §§ 60.670 - 60.676) on August 1, 1985. 51 Fed. Reg. 31337.
8. 40 C.F.R. § 60.670(a) states, in pertinent part, that the "affected facilities" in fixed or portable nonmetallic mineral processing plants includes: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station.
9. Pursuant to 40 C.F.R. § 60.670(e), an "affected facility" under 40 C.F.R. § 60.670(a) that commences construction, reconstruction, or modification after August 31, 1983 is subject to the requirements of 40 CFR Part 60.
10. 40 C.F.R. § 60.671 defines "belt conveyor" to mean a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.
11. 40 C.F.R. § 60.671 defines "bucket elevator" to mean a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.
12. 40 C.F.R. § 60.671 defines "nonmetallic mineral" to mean, among other minerals, or mixture of which the mineral is the majority: sodium compounds, including sodium chloride.
13. 40 C.F.R. § 60.671 defines "nonmetallic mineral processing plant" to mean, in pertinent part, any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located.

14. 40 C.F.R. § 60.672(a)(1) provides that, on or after the performance test required to be conducted by 40 C.F.R. § 60.8(a), no owner or operator shall cause to be discharged into the atmosphere from any affected facility stack emissions in excess of 0.05 grams per dry standard cubic meter (0.022 grains per dry standard cubic feet).

#### General Allegations

15. Morton owns and operates a salt processing plant at 151 South Industrial Street in Rittman, Ohio.
16. Morton's salt processing plant in Rittman, Ohio is a nonmetallic mineral processing plant as defined by 40 C.F.R. § 60.671.
17. In June, 1999, Morton began a project that included the installation of new belt conveyors and bucket elevators associated with a salt pellet production line (P008).
18. On August 7, 1999, Morton began operating the new belt conveyors and bucket elevators associated with P008.
19. Particulate matter emissions from the belt conveyors and bucket elevators associated with P008 are controlled using the dust collection system (baghouse) labeled by Morton as the "South Reclaim Unit".
20. Particulate matter emissions from the South Reclaim Unit are subject to the emission standard at 40 C.F.R. § 60.672(a)(1).
21. On February 6, 2002, Morton conducted initial performance tests on the emission points associated with P008 as required by 40 C.F.R. Part 60, Subpart 000.
22. The results of the February 6, 2002, performance test showed that the particulate matter emissions from the South Reclaim Unit were 0.15 grams per dry standard cubic meter.
23. On August 11, 2003, in a response to a notice of violation issued by the Ohio EPA, Morton stated that it would repair the South Reclaim Unit and conduct an additional performance test.
24. On November 25, 2003, Morton conducted an additional performance test on the South Reclaim Unit, and the results

showed that the particulate matter emissions were 0.0012 grams per dry standard cubic meter.

**Count I**

25. Complainant incorporates paragraphs 1 through 24 of this complaint, as if set forth in this paragraph.
26. Among other affected facilities, the belt conveyors and bucket elevators associated with Ohio EPA emission unit number P008 are subject to the requirements at 40 C.F.R. Part 60, Subpart 000.
27. The installation of the belt conveyors and bucket elevators made P008 a "new source" as defined by Section 111(a)(2) of the ACT and subject to the requirements of 40 C.F.R. Part 60, Subpart 000.
28. Morton's failure to demonstrate compliance with the particulate matter emission limit for the South Reclaim Unit until November 25, 2003, constitutes a violation of 40 C.F.R. § 60.672(a)(1).

**Stipulations**

29. Morton admits the jurisdictional allegations in the CAFO and neither admits nor denies the factual allegations in the CAFO, and denies liability for the factual and legal conclusions relating thereto. By entering into this CAFO and complying with its terms, Morton denies it is liable for any past or present violations of 40 C.F.R. Part 60 Subpart 000, and this CAFO shall not be interpreted as including any such admission.
30. Morton waives any right to contest the allegations in the complaint and its right to appeal this consent agreement and final order (CAFO).
31. Morton certifies based on information and belief after reasonable inquiry that its Rittman, Ohio facility is complying fully with 40 C.F.R. Part 60, Subpart 000.
32. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.
33. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

**Civil Penalty**

34. In consideration of Morton's agreement to perform a supplemental environmental project, U.S. EPA agrees to mitigate the proposed penalty of \$99,999.00 to \$25,000.00.
35. Morton must pay the \$25,000.00 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.
36. Morton must send the check to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673
37. A transmittal letter, stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

Jose C. De Leon, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511
38. This civil penalty is not deductible for federal tax purposes.
39. If Morton does not pay timely the civil penalty or any stipulated penalties due under paragraph 53, below, U.S. EPA

may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

40. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Morton will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Morton will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

#### **Supplemental Environmental Project**

41. Morton must complete a pollution prevention supplemental environmental project (SEP). This pollution prevention SEP is a voluntary project, not otherwise required by law, which is designed to reduce potential particulate emissions to the atmosphere by placing an asphalt cover on an area of land comprised of gravel and cinders at the Rittman, Ohio Morton Salt facility. Reduction of particulate emissions is one of EPA's objectives and paving is recognized as an effective, yet often financially prohibitive control. The target area experiences high volume traffic as trucks come in to the area and drop empty trailers, and depart with fully loaded trailers destined for delivery to the customer (drop and hook program). This SEP voluntarily reduces fugitive particulate emissions (PM-2.5, PM-10, and PM-30) to the atmosphere by effectively controlling particulate matter with an asphalt cover. The reduction of particle emissions, including small particle (PM-2.5) emissions, benefits human health and the environment.
42. At its Rittman, Ohio facility, Morton must complete the SEP as follows:
  - a. Following engineering and design work to facilitate drainage and insure appropriate support for the trailer locations, and implementation of the Morton's capital appropriation approval process, six inches of 401

asphalt cover will be installed upon an outdoor area of approximately 50,000 square feet.

- b. The schedule with milestones, which is based upon the seasonal availability of materials and weather conditions, is set forth below:
    1. engineering to be completed by October 30, 2005;
    2. approval of the capital appropriation to be completed by November 30, 2005;
    3. project to be started by June 1, 2006; and
    4. project to be completed by June 30, 2006.
43. Morton must spend at least \$74,999 on work described in paragraph 42 under the SEP.
  44. Morton must use, operate and maintain the Drop and Hook Program area for five years following its installation.
  45. Morton certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Morton further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.
  46. U.S. EPA may inspect the facility at any time to monitor Morton's compliance with this CAFO's SEP requirements.
  47. Morton must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Morton must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.
  48. Morton must submit a SEP completion report to U.S. EPA by August 30, 2006. This report must contain the following information:
    - a. detailed description of the SEP as completed;
    - b. description of any operating problems and the actions taken to correct the problems;

- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
  - d. certification that Morton has completed the SEP in compliance with this CAFO; and
  - e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).
49. Morton must submit all notices and reports required by this CAFO by first class mail to:
- Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511
50. In the report that Morton submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers or responsible individual:
- I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.
51. Following receipt of the SEP completion report described in paragraph 48 above, U.S. EPA must notify Morton in writing that:
- a. It has satisfactorily completed the SEP and the SEP report;
  - b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Morton 30 days to correct the deficiencies; or

- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 53.
52. If U.S. EPA exercises option b. above, Morton may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Morton's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Morton a written decision on its objection. Morton will comply with any requirements that U.S. EPA imposes in its decision. If Morton does not complete the SEP as required by U.S. EPA's decision, Morton will pay stipulated penalties to the United States under paragraph 53 below.

#### **Stipulated Penalties**

53. If Morton violates any requirement of this CAFO relating to the SEP, Morton must pay stipulated penalties to the United States as follows:
- a. If Respondent spent less than the amount set forth in paragraph 43, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on the SEP and the amount set forth in paragraph 43.
- b. If Respondent has completed the SEP but U.S. EPA reasonably determines that the SEP does not materially comply with the SEP description as contained in this CAFO Respondent will have thirty days from receipt of written notice from U.S. EPA to cure any deficiencies or must pay \$74,999 in addition to any penalty required under paragraph 34, above.
- c. If EPA reasonably determines on or after the date for SEP completion Respondent has abandoned work on the SEP, Respondent must pay a stipulated penalty of \$74,999 in addition to the \$25,000 penalty required under paragraph 34, above. The penalty will accrue as of the date for completing the SEP.
- d. If Respondent fails to comply with the schedule in paragraph 42, above, for implementing the SEP, fails to submit timely the SEP completion report required by paragraph 48, above, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$125.00	1 <sup>st</sup> through 14 <sup>th</sup> day
\$250.00	15 <sup>th</sup> through 30 <sup>th</sup> day
\$500.00	31 <sup>st</sup> day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone until it achieves compliance with the milestone.

54. U.S. EPA's determinations of whether Morton satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Morton.
55. Morton must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Morton will use the method of payment specified in paragraphs 35 through 37 above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.
56. Any public statement that Morton makes referring to the SEP must include the following language, "Morton undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Morton for violations of 40 C.F.R. Part 60, Subpart 000 and the Ohio State Implementation Plan." 40 C.F.R. Part 60, Subpart 000 may be substituted with "The New Source Performance Standards for Nonmetallic Mineral Processing Plants".

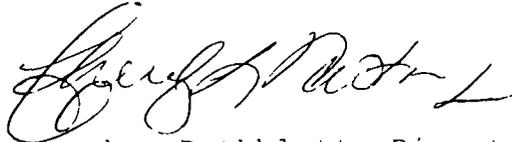
#### General Provisions

57. Full payment of the penalty assessed under the terms of the Final Order resolves Respondent's liabilities only for Federal civil penalties arising out of the facts and violations alleged in this Consent Agreement and in EPA's Notice of Violation and Finding of Violation addressed to Morton International, Inc., dated May 6, 2005. Payment of the penalty shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. 22.18(c).
58. The effect of this settlement is conditional upon the accuracy of the Respondent's representations to U.S. EPA.

59. This CAFO does not affect Morton's responsibility to comply with the Act and other applicable Federal, State, and local laws and regulations. Except as provided in paragraph 57 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.
60. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Morton's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).
61. The terms of this CAFO bind Morton, and its successors, and assigns.
62. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.
63. Each party agrees to bear its own costs and attorneys' fees in this action.
64. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection Agency, Complainant**

9/28/05  
Date



Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**Morton International, Inc., Respondent**

9/26/05  
Date



Plant Manager, R. H. man Plant

Name, Title  
Morton International, Inc.

CAA-05-2005-0061



**CONSENT AGREEMENT AND FINAL ORDER**

**Morton International, Inc.**

Docket No. CAA-05-2005-0061 *TSW*

**Final Order**

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

9-29-05  
Date

*TSW*  
\_\_\_\_\_  
Thomas V. Skinner  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2005-0061 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Morton and Morton's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

on the 29<sup>th</sup> day of September, 2005.

US ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
05 SEP 29 P 3:11  
REGISTRATION

Loretta Shaffer  
Loretta Shaffer  
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 9025 6565