



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

SEP 30 2010

REPLY TO THE ATTENTION OF:
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Aria A. Klees
Deputy General Counsel
C&D Technologies, Inc.
P.O. Box 3053
1400 Union Meeting Road
Blue Bell, PA 19422-0838

Re: Administrative Consent Order
EPA-5-10-113(a) IN-07

Dear Ms. Klees,

Enclosed is an Administrative Consent Order pertaining to C&D Technologies, Inc. located in Attica, Indiana. The effective date of the order is SEP 30 2010.

Please direct any legal questions to Robert Guenther, Associate Regional Counsel, at (312) 886-0566 and any technical questions should be directed to James Zimny, of my staff, at (312) 886-6086.

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Bush".

Bonnie Bush, Chief
Air Enforcement and Compliance Assurance
Section (MI/WI)

Enclosure:

cc: James Dodson, C&D Technologies, Inc.
Phil Perry, IDEM

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-10-113(a)-IN-07
)	
C&D Technologies, Inc.)	Proceeding Under Sections 113(a)(3),
P.O. Box 279)	114(a)(1) of the Clean Air Act,
200 West Main Street)	42 U.S.C. §§ 7413 (a)(3) and 7414(a)(1)
Attica, Indiana 47918)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Administrative Consent Order (Order) to C&D Technologies, Inc. (C&D), under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413 (a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Under Section 112 of the Act, 42 U.S.C. § 7412, U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Lead Acid Battery Manufacturing Area Sources at 40 C.F.R. Part 63, Subpart P P P P P P, §§ 63.11421 through 63.11427. The NESHAP for Lead Acid Battery Manufacturing Area Sources applies to any owner or operator of a lead acid battery manufacturing plant that is an area source of hazardous air pollutants (HAP) emissions.

3. The NESHAP, at 40 C.F.R. § 63.11423(c)(2), requires sources of lead emissions without a prior performance test to conduct a performance test using the methods specified in 40 C.F.R. § 60.374 by January 12, 2009.

4. 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 NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

5. The Administrator of U.S. EPA may require any person who owns or operates an emission source to “make reports; install, use and maintain monitoring equipment; sample emissions; provide information required by the Administrator” under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

6. C&D owns and operates a lead acid battery manufacturing facility at 200 West Main Street, Attica, Indiana.

7. C&D is an area source of HAP emissions.

8. C&D is subject to the NESHAP for Lead Acid Battery Manufacturing Area Sources at 40 C.F.R. Part 63, Subpart P, §§ 63.11421 through 63.11427.

9. C&D owns and operates an “emission source” within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, C&D is subject to the requirements of Section 114(a)(1).

10. On April 27, 2010, EPA issued C&D a Finding of Violation (FOV) alleging that it failed to conduct performance testing for all emission sources subject to the NESHAP for Lead Acid Battery Manufacturing Area Sources at 40 C.F.R. Part 63, Subpart P by the January 12, 2009, deadline. (40 C.F.R. § 63.11423 (c)(2), 40 C.F.R. § 60.374(a), 40 C.F.R. § 60.8).

11. On May 27, 2010, representatives of C&D and EPA discussed the April 27, 2010 FOV, pursuant to the requirements of Section 113 of the Act. At that time, C&D volunteered to

provide EPA with a schedule to complete performance testing of previously untested sources.

Compliance Program

10. By November 15, 2010, C&D must complete initial performance testing for the five remaining lead emission sources (S113 – Central Vacuum A, S24 – Bone Dry Oven, S246 – LCT 1700 Battery Oven, S129 – Central Vacuum B, S178 – Tank Dry) at its Attica, Indiana facility, pursuant to 40 C.F.R. § 63.11423 (c)(2), 40 C.F.R. § 60.374(a) and 40 C.F.R. § 60.8.

11. C&D must record the production rates, in pounds of lead, associated with the five remaining sources during the times of each performance test, in addition to the other requirements of the regulation.

12. By December 15, 2010, C&D must submit the performance testing results to:

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

General Provisions

13. Without admission or denial of any facts or conclusions contained in this Order, C&D agrees to abide by its terms.

14. C&D will not contest EPA's authority to enter into this agreement. C&D waives any further opportunity to confer or have a hearing.

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

16. Nothing in this Order limits the U.S. EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for C&D's violation of the

NESHAP for Lead Acid Battery Manufacturing Area Sources at 40 C.F.R. Part 63, Subpart P, §§ 63.11421 through 63.11427.

17. As adjusted by federal law and regulation, failure to comply with this Order may subject C&D to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

18. C&D may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If C&D fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

19. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 - 3520, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in EPA's electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

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

21. EPA may use any information submitted under this Order in an administrative,

civil, judicial, or criminal action.

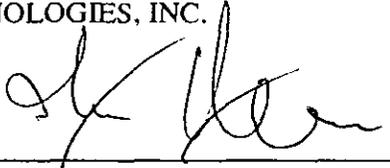
22. This Order is effective on the date of signature by the Director. This Order will terminate one year from the effective date, provided that C&D has complied with all terms of the Order throughout its duration.

23. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

24. Each party agrees to pay its own costs and attorneys' fees in this action.

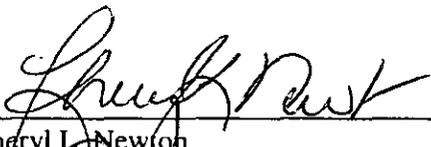
25. This Order constitutes the entire agreement between the parties.

AGREED AS STATED ABOVE:
C&D TECHNOLOGIES, INC.

By: 
Name: Ian Harvie
Title: Chief Financial Officer,
C&D Technologies, Inc

Date: 9/23/10

AGREED AND SO ORDERED:
U.S. ENVIRONMENTAL PROTECTION AGENCY


Cheryl L. Newton
Director
Air and Radiation Division

Date: 9/30/10

CERTIFICATE OF MAILING

Tracy Jamison, certify that I sent the Administrative Consent Order, EPA

Order No. EPA-5-10-113(a)-IN-07, by Certified Mail, Return Receipt Requested, to:

Mr. James Dodson
Environmental Administrator
C&D Technologies, Inc.
200 West Main Street
Attica, Indiana 47918

Ms. Aria A. Klees
Deputy General Counsel
C&D Technologies, Inc.
P.O. Box 3053
1400 Union Meeting Road
Blue Bell, PA 19422-0838

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No.

EPA-5-10-113(a)-IN-07, by First Class Mail to:

Phil Perry, Branch Chief
Office of Air Quality/Compliance Branch
Indiana Department Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 30 day of Sept 2010.

Tracy Jamison
Tracy Jamison
Office Automation Assistant
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7009 11280 0000 7670 1846
7009 11280 0000 7670 1839