



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD,
CHICAGO, IL 60604-3590

DEC 15 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cleopatra Bizoukas
President
Asphalt Cutbacks, Inc.
3000 Gary Avenue
East Chicago, Indiana 46312

Re: Notice and Finding of Violation
Asphalt Cutbacks, Inc.
East Chicago, Indiana

Dear Ms. Bizoukas:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Asphalt Cutbacks, Inc., under Section 113(a)(1) and (3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1) and (3). We find that Asphalt Cutbacks is violating the Indiana State Implementation Plan, and has violated Sections 111(e) and 502(a) of the Act, 42 U.S.C. §§ 7411(e) and 7661a(a); its federally enforceable state operating permit; and the Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture at 40 C.F.R. Part 60, Subpart UU at its East Chicago, Indiana facility.

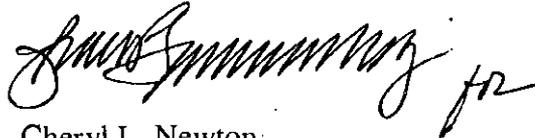
Section 113 of the Act gives the EPA several enforcement options. These options include: issuing an administrative compliance order; issuing an administrative penalty order; and bringing a judicial civil or criminal action.

The EPA is offering Asphalt Cutbacks an opportunity to confer about the violations alleged in the NOV/FOV. The conference will give company representatives an opportunity to present information on the specific findings of violation, any efforts the company has taken to comply, and the steps the company will take to prevent future violations.

Please plan for the facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. Asphalt Cutbacks may have an attorney represent it at this conference.

The EPA contact in this matter is Ray Cullen. You may call him at (312) 886-0538 to request a conference. You may also contact Reginald Pallesen, Associate Regional Counsel, at (312) 886-0555. You should make the request for a conference within 10 calendar days following your receipt of this letter. The EPA would like to hold any conference within 30 calendar days following your receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Phil Perry, Chief
Indiana Department of Environmental Management

Rick Massoels, Environmental Manager
Indiana Department of Environmental Management

5. 326 IAC 2-8-1 states that the definitions provided in 326 IAC 2-7 apply throughout 326 IAC 2-8.
6. On November 14, 1995, EPA approved definitions in 326 IAC 2-7-1 as part of the federally enforceable Indiana SIP. 60 *Fed. Reg.* 57188 (November 14, 1995). 326 IAC 2-7-1 became federally effective on December 14, 1995.
7. 326 IAC 2-7-1(14) defines “emissions unit,” in part, as any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.
8. 326 IAC 2-7-1(30)(A) defines “regulated air pollutant,” in part, as any volatile organic compound (VOC).
9. Title V of the Act, 42 U.S.C. §§ 7661 through 7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources, including “major sources,” and other sources made subject under Section 502(a) of the Act, 42 U.S.C. § 7661a(a).
10. 326 IAC 2-7-2(a) states, in part, that a major source as defined in 326 IAC 2-7-1(21) is required to have a Part 70 permit. Any source, including an area source, subject to a standard, a limitation, or other requirement under Section 111 of the Act is also required to have a Part 70 permit.
11. 326 IAC 2-7-1(21) and 40 C.F.R. § 70.2 both define “major source,” in part, as any stationary source belonging to a single major industrial grouping that directly emits, or has the potential to emit, 100 tpy or more of any regulated air pollutant.
12. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), requires, in part, that after the effective date of any permit program approved or promulgated under Title V of the Act, it shall be unlawful for any person to violate any requirement of a permit issued under Title V.
13. 326 IAC 2-8-2 states that a source required to have a Part 70 permit as described in 326 IAC 2-7-2(a) may apply to the commissioner for a FESOP.
14. 326 IAC 2-8-6(b) states that all terms and conditions in a FESOP, including any provisions designed to limit a source’s potential to emit, are enforceable by the EPA and citizens under the Act.
15. Pursuant to Section 111(b) of the Act, 42 U.S.C. § 7411(b), on August 6, 1982, the EPA promulgated Subpart UU (40 C.F.R. §§ 60.470 through 60.474). 47 *Fed. Reg.* 34143 (August 6, 1982). On October 17, 2000, the EPA approved revisions to Subpart UU. 65 *Fed. Reg.* 61762 (October 17, 2000).
16. Condition D.1.4(a) of A.C.I.’s FESOP and Subpart UU, at 40 C.F.R. § 60.472(c), require that A.C.I. shall not cause to be discharged into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent, except for one consecutive 15-minute period in any 24-hour period when the transfer lines are being blown for clearing.

17. Section 111(e) of the Act, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this section, 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.
18. 40 C.F.R. § 52.23 states, in part, that failure to comply with any approved regulatory provision of a SIP or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the SIP, shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Act.

Findings of Fact

19. A.C.I. owns and operates an industrial asphalt and industrial cutback manufacturing facility at 3000 Gary Avenue, East Chicago, Indiana.
20. The facility has two batch asphalt-blowing processes that emit regulated air pollutants, including VOCs, and therefore are considered to be “emissions units” as that term is defined at 326 IAC 2-7-1(14).
21. Each asphalt-blowing process consists of a process tank and a knockout box. VOC and particulate matter (PM) emissions from process tank PT-1 and knockout box KOT-1 are controlled by a 23.15 million British thermal unit per hour (mmBTU/hr) thermal oxidizer, identified as S-1. VOC and PM emissions from process tank PT-2 and knockout box KOT-2 are controlled by a 12.5 mmBTU/hr thermal oxidizer, identified as S-4. All other equipment, which includes two natural gas-fired asphalt heaters, eight asphalt storage tanks, four industrial cutback storage tanks, two VM&P storage tanks, and two mineral spirits storage tanks, vents to the atmosphere.
22. The facility’s unrestricted potential emissions of VOCs and PM-10 are each greater than 100 tpy, which therefore qualifies it as a “major source” as that term is defined at 326 IAC 2-7-1(21) and 40 C.F.R. § 70.2.
23. A.C.I. agreed to limit its potential to emit VOCs and PM -10 to less than major source levels through a FESOP the Indiana Department of Environmental Management (IDEM) issued on March 26, 1998. IDEM issued A.C.I.’s current FESOP on April 17, 2008.
24. A.C.I. operates each thermal oxidizer only when the associated asphalt-blowing process is running, per Condition D.1.2(b) of its FESOP. The thermal oxidizers are idle when the processes are in the preheating stage.
25. Using a FLIR GasFind Infra Red (IR) camera during a May 6, 2010 inspection, the EPA observed VOC emissions from the thermal oxidizer S-4 stack when the thermal oxidizer was idle, along with from the open hatch at the top of some storage tanks.

26. When it applied for its FESOP, A.C.I.'s potential-to-emit calculations did not include emissions from the thermal oxidizers during periods when the processes are being preheated; nor did it include emissions vented from open storage tank hatches.
27. A.C.I. does not account for emissions from the thermal oxidizers during periods when the processes are being preheated; nor does it include emissions vented from open storage tank hatches when verifying compliance with the emissions limits in its FESOP.
28. At the May 6, 2010 inspection, A.C.I. stated that when it applied for its FESOP, it evaluated only the asphalt-blowing processes when calculating emissions from the facility, and that all other activities are negligible based on calculations.
29. A.C.I.'s storage tanks are subject to Subpart UU.
30. During the May 6, 2010 inspection, the EPA observed visual emissions from one of A.C.I.'s asphalt storage tanks from 10:05-10:30 a.m. and then again from 1:35-3:05 p.m. A.C.I. stated it was not blowing transfer lines at these times, and that the tank was operating normally.

Violations

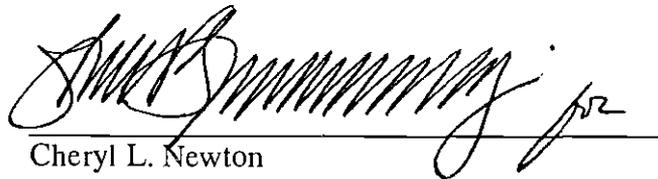
31. A.C.I. failed to account for all potential emissions of VOCs when it applied for its FESOP, in violation of 326 IAC 2-8-3(a), (b), and (c)(3)(A-C) of the Indiana SIP.
32. A.C.I. exceeded the opacity limit of its FESOP and Subpart UU, in violation of Sections 111(e) and 502(a) of the Act, 42 U.S.C. §§ 7411(e) and 7661a(a), Condition D.1.4(a) of its FESOP, and 40 C.F.R. § 60.472(c).

Environmental Impact of Violations

33. VOCs cause ground level ozone, which can irritate the human respiratory system and reduce lung function. Violations of opacity regulations increase public exposure to unhealthy particulate matter. Particulate matter contributes to respiratory problems, lung damage, and premature deaths.

12-15-11

Date



Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Notice and Finding of Violation, No.

EPA-5-12-IN-02, by Certified Mail, Return Receipt Requested, to:

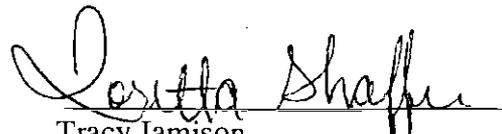
Cleopatra Bizoukas
President
Asphalt Cutbacks, Inc.
3000 Gary Avenue
East Chicago, Indiana 46312

I also certify that I sent copies of the Notice and Finding of Violation by first-class mail to:

Phil Perry
Chief
Indiana Department of Environmental Management
Compliance and Enforcement Branch
Office of Air Quality
100 North Senate Avenue, Room IGCN 1003
Indianapolis, Indiana 46204

Rick Massoels
Environmental Manager
Indiana Department of Environmental Management
Northwest Regional Office
Office of Compliance Support
8380 Louisiana Street
Merrillville, Indiana 46410-9201

on the 19 day of December, 2011.


Tracy Jamison,
Office Automation Assistant
PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7673 8897