

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Pike Sanitation, Inc.) **Administrative Order**
)
Proceeding Under Sections) **EPA-5-02-113(a) OH-02**
113(a)(3) and 114(a)(1))
of the Clean Air Act,)
42 U.S.C. §§ 7413(a)(3))
and 7414(a)(1))
_____)

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 Pike Sanitation, Inc. (Pike Sanitation) 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. The Administrator of U.S. EPA may promulgate regulations establishing standards of performance for new sources (New Source Performance Standards or NSPS) under Section 111 of the Act, 42 U.S.C. § 7411.
3. Under Section 111 of the Act, the Administrator promulgated the New Source Performance Standards for Municipal Solid Waste Landfills.
4. The NSPS regulations for Municipal Solid Waste (MSW) Landfills, codified at 40 C.F.R. Part 60, Subpart WWW, apply to MSW landfills that commenced construction, reconstruction or modification, or began accepting waste, on or after May 30, 1991. These NSPS regulations became effective on March 12, 1996.
5. The NSPS regulation at 40 C.F.R. § 60.752(a) requires that an owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the Administrator. The NSPS regulation at 40 C.F.R. § 60.757(a) requires that the initial design capacity report be submitted no later than

June 10, 1996, for MSW landfills that commenced construction, modification, or reconstruction on or after May 30, 1991 but before March 12, 1996.

6. The NSPS regulation at 40 C.F.R. § 60.752(b) requires that an owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall either comply with 40 C.F.R. § 60.752(b)(2) or calculate a Nonmethane Organic Compound (NMOC) emission rate for the landfill. The regulation requires the facility to recalculate the NMOC emission rate annually except as provided at 40 C.F.R. § 60.757(b)(1)(ii). If the estimated NMOC emission rate as reported to the Administrator is less than 50 megagrams per year in each of the next five consecutive years, the owner or operator may submit an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. The NSPS regulation at 40 C.F.R. § 60.757(b)(1)(i) requires that the initial NMOC emission rate report be submitted no later than June 10, 1996, for MSW landfills that commenced construction, modification, or reconstruction on or after May 30, 1991 but before March 12, 1996.
7. The NSPS regulation at 40 C.F.R. § 60.752(c) requires that an owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall obtain an operating permit for the landfill under 40 C.F.R. Part 70 or 71. The regulation states that the landfill becomes subject to the requirements of 40 C.F.R. § 70.5(a)(1)(i) no later than June 10, 1996, for MSW landfills that commenced construction, modification, or reconstruction on or after May 30, 1991 but before March 12, 1996.
8. Section 502(a) of the CAA, 42 U.S.C. § 7661(a), states that it is unlawful for any person to operate a major source, except in compliance with a permit issued by a permitting authority under Title V of the CAA, 42 U.S.C. §§ 7661-7661(f).
9. Section 503(a) of the CAA, 42 U.S.C. § 7662(a), states that any source specified in Section 502(a), in this case a major source, shall become subject to a permit program, and required to have a permit on the later of the following dates: (1) the effective date of a permit program applicable to the source; or (2) the date such source becomes a major source.

10. Section 503(c) of the CAA, 52 U.S.C. § 7662(c), states that no later than 12 months from the date on which the source becomes subject to an approved permit program, any person required to have a permit shall submit to the permitting authority a compliance plan and an application for a permit.
11. U.S. EPA published the final approval for the State of Ohio's operating permits program in the Federal Register (60 Fed. Reg. 42045) on August 15, 1995. The final approval became effective on October 1, 1995. 40 C.F.R. Part 70, Appendix A.
12. The regulation at 40 C.F.R. § 70.1(b) requires that all major source facilities in Ohio shall have a permit to operate that assures compliance by the source with all applicable requirements.
13. The regulation at 40 C.F.R. § 70.5(a)(i) requires all major source facilities in Ohio that are first-time applicants for a Title V permit to submit a complete Title V permit application within 12 months from the date the source becomes subject to the permit program.
14. The regulation at 40 C.F.R. § 70.7(b) requires that no Part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a Part 70 program.
15. 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 or C.F.R. Part 70 regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.
16. The Administrator of U.S. EPA may require any person who owns or operates an emission source to 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

17. Pike Sanitation owns and operates a MSW landfill at its 123 South Lock Street, Waverly, Ohio facility. The Waverly, Ohio facility is a "municipal solid waste landfill" within the meaning of 40 C.F.R. § 60.751.

18. Pike Sanitation began accepting waste at its Waverly, Ohio facility in 1987 with a design capacity of 433,273 cubic yards. Pike Sanitation received a draft permit to install (PTI) for a major modification at the facility from Ohio Environmental Protection Agency (Ohio EPA) in October 1995 and began construction at that time. The PTI approved a design capacity of approximately 19.9 million cubic meters. Therefore, the Waverly, Ohio facility is subject to the NSPS for MSW Landfills at 40 C.F.R. Part 60, Subpart WWW.
19. Pike Sanitation had an emission rate of 10.52 megagrams of NMOC in 2001 at the facility. Pike Sanitation owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Pike Sanitation is subject to the requirements of Section 114(a)(1).
20. Pike Sanitation was required to submit a complete Title V permit application by June 10, 1997.
21. Pike Sanitation failed to timely submit an initial design capacity report, in violation of the NSPS for MSW Landfills at 40 C.F.R. § 60.752(a).
22. Pike Sanitation failed to timely submit NMOC emission rate reports, in violation of the NSPS for MSW Landfills at 40 C.F.R. § 60.752(b).
23. As a major source and first time applicant, Pike Sanitation failed to submit a complete Title V application to Ohio by June 10, 1997, in violation of 40 C.F.R. § 70.5(a)(i).
24. Pike Sanitation operated a major source at its Waverly, Ohio facility without a Title V permit, in violation of 40 C.F.R. § 70.7(b).

Compliance Program

25. By the effective date of this Order, Pike Sanitation must achieve, demonstrate, and maintain compliance with the NSPS for MSW Landfills and 40 C.F.R. Part 70 at its Waverly, Ohio facility.
26. Pike Sanitation must follow the methods for complying with the monitoring, recordkeeping, and reporting requirements of the NSPS for MSW landfills and 40 C.F.R. Part 70.
27. Hereafter, Pike Sanitation must achieve, demonstrate, and

maintain compliance with the NSPS for MSW landfills and 40 C.F.R. Part 70 at its Waverly, Ohio facility.

28. Pike Sanitation must certify in writing to U.S. EPA by **April 30, 2002**, what actions it has taken to come into compliance with the NSPS for MSW Landfills and 40 C.F.R. Part 70, under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1).
29. Any authorized representative of the U.S. EPA or of the Ohio EPA may, upon presentation of credentials, and without prior notice, enter any facility owned or operated by Pike Sanitation at any time to determine compliance with the requirements of the Clean Air Act, the NSPS for MSW landfills, 40 C.F.R. Part 70, and provisions of this Order. Such authorized representative may take samples and photographs and inspect and copy such records as U.S. EPA may deem necessary. The inspection authority created under this paragraph is in addition to, and does not in any way limit, U.S. EPA's authority to investigate, inspect, or enter premises pursuant to any laws, permits, or regulations, including but not limited to any premises owned or operated by Pike Sanitation.
30. Any notice, report, or other document submitted by Pike Sanitation pursuant to this Order, which makes any representation concerning Pike Sanitation's compliance or noncompliance with any requirement of this Order, shall be certified by an authorized representative of Pike Sanitation. The certification of such responsible official shall be in the following form: **"I hereby certify that the information contained in or accompanying this submission is true, accurate and complete to the best of my knowledge, information and belief."**
31. Pike Sanitation must send all reports required by this Order to:

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

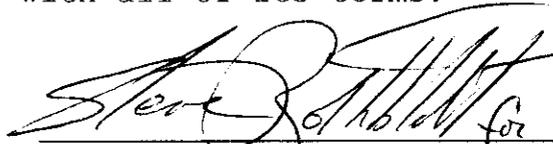
General Provisions

32. This Order does not affect Pike Sanitation's responsibility to comply with other local, state, and federal laws and regulations.

33. This Order does not restrict U.S. EPA's authority to enforce Section 111 of the Act, or any other section of the Act.
34. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Pike Sanitation's violation of the NSPS for MSW Landfills and 40 C.F.R. Part 70.
35. Failure to comply with this Order may subject Pike Sanitation to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.
36. The terms of this Order are binding on Pike Sanitation, its assignees and successors. Pike Sanitation 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 Pike Sanitation has given the notice.
37. 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.
38. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.
39. 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 Pike Sanitation an opportunity to confer with U.S. EPA concerning this Order. Pike Sanitation may schedule a conference with U.S. EPA by calling Julie Monahan, at (312) 886-0120, within 10 days of Pike Sanitation's receipt of this Order.
40. The Order shall become effective on **March 31, 2002**. The Order shall expire one year from the effective date, if Pike Sanitation has complied with all of its terms.

1/23/2002

Date



Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Order, EPA Order No. 5-02-113(a)OH-02, Certified Mail, Return Receipt Requested, to:

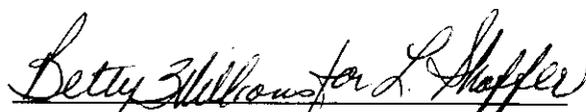
Michael Migyanko, President
Pike Sanitation, Inc.
123 South Lock Street
Waverly, Ohio 45690

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

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Kay Gilmer, APC Supervisor
Southeast District Office
Ohio Environmental Protection Agency
2195 Front Street
Logan, Ohio 43138

on the 24 day of January 2002.


Loretta Shaffer, Secretary
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 70993400 0000 95976808