UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: **John S. Lane & Son, Incorporated** **1550 West Street** **Amherst, MA 01002** **Proceeding under Section 113** **of the Clean Air Act**	))))))))))	**NOTICE OF VIOLATION**

INTRODUCTION

1. The United States Environmental Protection Agency ("EPA"), Region 1, issues this Notice of Violation ("NOV") to John S. Lane & Son, Incorporated ("John S. Lane"), regarding its stone (trap rock) crushing and processing operations located at 1550 West Street in Amherst, Massachusetts (the "Facility").

2. The NOV contains EPA's findings that John S. Lane has violated the Clean Air Act ("CAA" or "Act") and its implementing regulations, including but not limited to:

   a. The New Source Performance Standards for Nonmetallic Mineral Processing Plants, ("Nonmetallic Mineral Processing NSPS"), promulgated at 40 C.F.R. Part 60, Subpart OOO; and

   b. The National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, ("RICE NESHAP"), promulgated at 40 C.F.R. Part 63, Subpart ZZZZ.

BACKGROUND AND FACTUAL BASIS

3. John S. Lane replaced its entire stone crushing and processing line in the 1997 to 1999 timeframe.

4. The Facility is a portable nonmetallic mineral processing plant, as defined in 40 C.F.R. § 60.671, with a capacity of 350 tons per hour.

5. EPA conducted an on-site inspection of the Facility on May 25, 2016.

6. At the time of the EPA inspection, John S. Lane operated, among other equipment:

   a. One Svedala primary jaw crusher; one Nordberg secondary cone crusher, one Nordberg tertiary cone crusher; and, a number of associated screeners and conveyors.

   b. One non-emergency, stationary Caterpillar, Model 3512, diesel engine/generator and one non-emergency, stationary, Caterpillar, Model 3412, diesel engine/generator.

7. The Nonmetallic Mineral Processing NSPS applies to portable nonmetallic mineral processing plants with capacities of more than 150 tons per hour. See 40 C.F.R. § 60.670(c)(2). The provisions of the Nonmetallic Mineral Processing NSPS apply to the following "affected facilities" in a portable nonmetallic mineral processing plant: each crusher; grinding mill; screening operation; bucket elevator; belt conveyor; bagging operation; storage bin; and enclosed truck or railcar loading station. See 40 C.F.R. § 60.670(a)(1).

8. The effective date of the Nonmetallic Mineral Processing NSPS was August 1, 1985. See 50 Fed. Reg. 31328 (August 1, 1985). Amendments to the Nonmetallic Mineral Processing NSPS were effective on April 28, 2009. See 74 Fed. Reg. 19309 (April 28, 2009). Each owner or operator of an affected facility that commenced construction, reconstruction, or modification after August 31, 1983 is subject to the requirements of the Nonmetallic Mineral Processing NSPS as promulgated on August 1, 1985. See 40 C.F.R. § 60.670(e).

9. The Facility is considered an "area source" for hazardous air pollutant (HAP) emissions.

10. The Caterpillar, Model 3512, non-emergency, stationary diesel engine/generator located at the Facility, designated as Engine #390, has a brake-horse power rating of 1844 and was installed at the Facility in the 1997 timeframe.

11. The Caterpillar, Model 3412, non-emergency, stationary, diesel engine/generator located at the Facility, designated as Engine #454, has a horse power rating of 1011 and was installed at the Facility in the 2005/2006 timeframe.

FINDINGS

Nonmetallic Mineral Processing NSPS

12. John S. Lane's various crushers, screeners, and belt conveyors located at the Facility are "affected facilities" under the Nonmetallic Mineral Processing NSPS.

13. John S. Lane is subject to the Nonmetallic Mineral Processing NSPS because it commenced construction of its affected facilities after August 31, 1983.

14. Pursuant to 40 C.F.R. § 60.672(b), "Standard for Particulate Matter", affected facilities without capture systems, such as John S. Lane's Amherst, Massachusetts facility, must meet the fugitive emission limits and compliance requirements in Table 3 within 60 days after achieving the maximum production rate at which the facility will be operated, but no later than 180 days after initial startup as required under 40 C.F.R. §60.11.

15. Pursuant to 40 C.F.R. § 60.675(c), "Test Methods and Procedures", the owner or operator of an affected facility must determine compliance with § 60.672(b) by performing EPA Reference Method 9 visible emission testing on all subject equipment (e.g., the crushers, screeners, and conveyor belts).

16. John S. Lane was required to conduct EPA Reference Method 9 visible emissions testing, to determine its fugitive emissions from the subject equipment (e.g., the crushers, screeners, and conveyor belts), by various dates in the 1997 to 2000 timeframe, as the old production line was being replaced with the new production line.

17. To date, John S. Lane has not conducted the required EPA Reference Method 9 visible emissions testing.

18. Accordingly, John S. Lane has violated, and continues to violate, 40 C.F.R. §§ 60.672(b) and 60.675(c).

19. Pursuant to 40 C.F.R. § 60.676(i), the owner or operator of an affected facility shall submit to EPA a notification of the actual date of initial startup of each affected facility (e.g., each crusher, screener, and conveyor belt).

20. To date, John S. Lane has not provided a notification of the actual date of initial startup for any of its affected facilities (e.g., each crusher, screener, and conveyor belt).

21. Accordingly, John S. Lane has violated, and continues to violate, 40 C.F.R. § 60.676(i).

RICE NESHAP

22. Engine #390 was manufactured on June 4, 1997. As such, Engine #390 is subject to the RICE NESHAP.

23. Engine #454 was manufactured on April 20, 1998. As such, Engine #454 is subject to the RICE NESHAP.

24. Pursuant to 40 C.F.R § 63.6645(a)(2), the owner or operator of existing stationary RICE located at an area source of HAP emissions, subject to the RICE NESHAP, must submit an initial notification, as described in § 63.6645 and § 63.9(b). This notification was due by August 31, 2010.

25. To date, John S. Lane has not submitted the required initial notification for either of its two RICE engines.

26. Accordingly, John S. Lane has violated, and continues to violate, 40 C.F.R § 63.6645 and § 63.9(b).

27. Pursuant to 40 C.F.R § 63.6612(a), an owner or operator of an existing stationary RICE located at an area source of HAP emissions must conduct any initial performance test or other initial compliance demonstration that applies according to Table 4 and Table 5 within 180 days after the compliance date specified in 40 C.F.R. § 63.6595 and according to the provisions in 40 C.F.R. § 63.7(a)(2). Both RICE engines had a compliance date of May 3, 2013. Therefore, the due date for the initial performance test and/or initial compliance demonstration was October 30, 2013.

28. To date, John S. Lane has not conducted an initial performance test or an initial compliance demonstration on either of its two RICE engines.

29. Accordingly, John S. Lane has violated, and continues to violate, 40 C.F.R § 63.6612(a) and § 63.7(a)(2).

30. Pursuant to 40 C.F.R. § 63.6645 and § 63.9(h), the owner or operator of an affected source that complies by conducting initial performance tests must submit to the Administrator a notification of compliance status, including performance test results, before the close of business on the 60th day following the completion of the performance test according to § 63.10(d)(2). The owner or operator of an affected source that complies by conducting initial compliance demonstrations must submit to the Administrator a notification of compliance status before the close of business on the 30th day following the completion of the initial compliance demonstration.

31. To date, John S. Lane has not submitted a notification of compliance status and has not submitted initial performance test/initial compliance demonstration results for either of its two RICE engines.

32. Accordingly, John S. Lane has violated, and continues to violate, 40 C.F.R. § 63.6645 and § 63.9(h).

33. Pursuant to 40 C.F.R. § 63.6650, the owner or operator of a stationary, non-emergency, non-black start, compression ignition RICE greater than 300 horsepower located at an area source of HAP emissions must submit semiannual compliance reports to EPA.

34. To date, John S. Lane has not submitted any semiannual compliance reports for either of its two RICE engines.

35. Accordingly, John S. Lane has violated, and continues to violate, § 63.6650.

36. Pursuant to 40 C.F.R. § 63.6603, owners or operators of existing stationary RICE located at an area source of HAP emissions must comply with the requirements in Table 2d of the RICE NESHAP.

37. Table 2d requires non-emergency, non-black start, CI, stationary RICE greater than 500 horsepower to:

a. Limit the concentration of carbon monoxide ("CO") in the stationary RICE exhaust to 23 parts per million, volumetric dry ("ppmvd") at 15% oxygen; or

b. Reduce CO emissions by 70 percent or more.

38. John S. Lane has not meet the requirements of Table 2d.

39. Accordingly, John S. Lane has violated and continues to violate 40 C.F.R. § 63.6603.

ENFORCEMENT

40. At any time, EPA may take any or all of the following actions in accordance with the provisions of Section 113 of the Act: (a) issue an order requiring compliance with the Act; (b) issue an administrative penalty order for up to $45,268 per day for each violation; or (c) bring a civil action in federal district court for an injunction and/or monetary penalties up to $95,284 per day for each violation. See Sections 113(a), (b) and (d) of the Act, 42 U.S.C. §§ 7413(a), (b) and (d), 40 C.F.R. Part 19.4, and the 2017 Civil Monetary Penalty Inflation Adjustment Rule, 82 Fed. Reg. 3633 (January 12, 2017) (CAA judicial and administrative penalties raised effective January 15, 2017).

41. If John S. Lane has knowingly violated the requirements of the Act, John S. Lane and its responsible corporate officers may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

42. Be advised that the issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address the violations alleged above.

APPLICABLITY

43. This NOV applies to John S. Lane, its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for John S. Lane. This NOV is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

OPPORTUNITY TO CONFER

44. John S. Lane may confer with EPA concerning this NOV and the findings upon which it is based. To schedule a conference, please contact Tom McCusker, Environmental Engineer, at (617) 918-1862, or have your legal counsel contact Tom Olivier, Senior Enforcement Counsel, at (617) 918-1737 within fourteen (14) days of the date of issuance of this NOV. John S. Lane may choose to be represented by counsel at the conference.

SO ISSUED:

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

01/26/2017
Date