



Air Quality Bureau
NOTICE OF VIOLATION

TRACKING NUMBER:	VHCC-1748-2101	ICIS CASE NUMBER:	NM000A200198165
COMPANY NAME:	Vernon Hamilton Construction Company	FACILITY NAME:	Gallup Office Yard
PERMIT(S):	NSR 0844M1	SOURCE CLASS:	Minor
INSPECTION DATE:	December 17, 2020	EARLIEST DISCOVERY:	December 18, 2020
SELF-REPORTED:	No	*NRV, FRV or HPV:	FRV
FACILITY LOCATION:	Portable Source	CONTACT PERSON:	Brian Larson 602-810-0117
MAILING ADDRESS:	P.O. Box 1110 Gallup, NM 87305	COUNTY:	McKinley

This Notice of Violation ("NOV") is a written record of the AIR QUALITY BUREAU'S finding that a violation of AIR QUALITY CONTROL REGULATIONS OR AIR QUALITY PERMIT CONDITIONS has occurred. An NOV is issued each time a violation is observed or discovered. This NOV may subject you to monetary penalties through administrative, civil, or criminal prosecution.

*Each violation associated with this enforcement case has been evaluated in accordance with EPA's Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources (September 2014) and Timely and Appropriate Enforcement Response to High Priority Violations (August 2014). The overall assessment of this enforcement case reflects the highest level determined.

NRV: Non-Reportable Violation
FRV: Federally-Reportable Violation
HPV: High Priority Violation

If you have questions or believe any statement in this notice is erroneous, please contact Teri Waldron, Enforcement Specialist, at (505) 629-7081.

Air Quality Bureau Official

Date

Company: Vernon Hamilton Construction Co.
Facility: Gallup Office Yard
NOV #: VHCC-1748-2101
Permit #: NSR 0844M1

Inspection By: Brian Polgar
Date of Discovery: December 18, 2020
NOV Prepared By: Teri Waldron
NRV, FRV or HPV: FRV

VIOLATION 1 NSR Permit 0844M1, Specific Conditions 4.a.i and ii *Recordkeeping*

Number of Claims: 3

Requirement: NSR 0844M1 Specific Conditions 4.a.i and ii, *Recordkeeping* states, "Daily operating logs and records of the following parameters and information recorded during all hours the drum mix asphalt plant and screen plant are operating shall be kept.

- i) The date and hours of operation shall be recorded. Intermittent operation shall be noted by recording the time operations ceased and time of subsequent startup.
- ii) The daily rolling 365-day total hours of operation for the asphalt plant and screen plant.
- ii) The daily production rate for each product (aggregate or asphalt) shall be recorded at the end of each day."

Description: On December 17, 2020, an AQB inspector requested records from Mr. Larson covering the dates from May 1, 2020 (the date of purchase) to December 11, 2020. On December 18, 2020, records were received though no hours of operation or production rates recorded for the following seven (7) days the screening plant operated: August 17 – 21, 2020, and August 24 and 25, 2020. In addition, the daily production rate was not included in the operating logs for the screening plant. In the email of December 18, 2020, which accompanied the records request response, the owner admitted that the production rates were not included in the operating logs.

On August 3, 2021, the same AQB inspector performed an onsite inspection with an Occupational Health and Safety Bureau health compliance officer, accompanied by the General Manager of VHCC. On that date the AQB inspector requested operating records for the screen plant and asphalt plant from January 1, 2021, until July 31, 2021, which the VHCC General Manager furnished and photocopied for him.

The screening plant operating records reviewed in Santa Fe on August 4, 2021, listed 43 operating days between March 1 and May 26, 2021. The screening plant operating logs did not record a daily rolling 365-day total hours of operation for any of the 43 operating days. The asphalt plant operating logs did include the daily rolling 365-day total hours of operation for this time period.

Conclusion: The failure of VHCC to record hours of operation and production rates for seven (7) days and to record daily rolling 365-day totals on 43 days for the screening plant is in violation of NSR Permit 0844M1 Specific Condition 4.a.i. and ii., *Recordkeeping*.

Corrective Action Required: VHCC shall identify the cause(s) of these violations as well as the actions taken to prevent the recurrence of the violations.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide the following screening plant records for August 2021 through the issuance date of this NOV: the hours of operation (daily, from startup to shutdown times), the daily rolling 365-day total hours of operation, and daily production rates recorded at the end of each operating day.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

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NOV Prepared By: Teri Waldron
NRV, FRV or HPV: FRV

VIOLATION 2: NSR Permit 0844M1 Specific Condition 4.a.iii, *Recordkeeping*

Number of Claims: 1

Requirement: NSR Permit 0844M1, Specific Condition 4.a., *Recordkeeping* states in relevant part, "Daily operating logs and records of the following parameters and information recorded during all hours the drum mix asphalt plant and screen plant are operating shall be kept.

- iii) The frequency of the application of water or equivalent control measures used to minimize fugitive emissions on haul roads shall be maintained."

Description: On December 18, 2020, the AQB Inspector received records from VHCC, requested on December 17, 2020. There was no record that addressed watering/dust control on roads from May 1, 2020, to December 11, 2020. The inspector received information via email from the owner that VHCC had not kept a formal record of water use for controlling dust.

Conclusion: The failure of VHCC to monitor and record the daily frequency of the application of water or equivalent control measures used to minimize emissions on haul roads is in violation of NSR Permit 0844M1, Specific Condition 4.a.iii, *Recordkeeping*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide records of the daily frequency and amount of water application to the haul roads for all of 2021 and 2022 (through the issuance date of this NOV) on days the plant was operating. If rain occurred on that operating day (or the night before), or the plant did not operate (screening or asphalt) indicate such on the log.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

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Date of Discovery: December 18, 2020
NOV Prepared By: Teri Waldron
NRV, FRV or HPV: FRV

VIOLATION 3: NSR Permit 0844M1, Specific Condition 4.b., *Recordkeeping*

Number of Claims: 1

Requirement: NSR Permit 0844M1, Specific Condition 4.b., *Recordkeeping*, states in relevant part, “The pressure drop across the wet scrubber shall be recorded twice each operating day. The date and time of measurement and the name of the person making the measurement shall be included in the record.”

Description: The AQB Inspector received records, received December 18, 2020 from the owner of VHCC for the period May 1, 2020, to December 11, 2020, that showed two (2) spaces for the pressure drop readings to be recorded (twice a day for each operating day). However, there was not a space on the data form for a person’s name responsible for the readings to be filled in. No names were recorded on any of the operating records.

Conclusion: The failure of VHCC to record the name of the person responsible for recording the pressure drop readings across the wet scrubber is in violation of NSR Permit 0844M1, Specific Condition 4.b., *Recordkeeping*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide all records of pressure drop readings across the wet scrubber for 2021 and 2022 (through the issuance date of this NOV) with the name of the person recording the pressure drop readings included for each reading.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Company: Vernon Hamilton Construction Co.
Facility: Gallup Office Yard
NOV #: VHCC-1748-2101
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Inspection By: Brian Polgar
Date of Discovery: December 17, 2020
NOV Prepared By: Teri Waldron
NRV, FRV or HPV: FRV

VIOLATION 4: NSR Permit 0844M1, General Condition 3., *Notification to Subsequent Owners*

Number of Claims: 1

Requirement: NSR 0844M1, General Condition 3, *Notification to Subsequent Owners* states that “Any new owner or operator shall notify the Department, within thirty (30) days of assuming ownership, of the new owner’s or operator’s name and address.”

Description: On November 17, 2020, AQB received a forwarded citizen complaint from the Navajo Nation EPA (NNEPA) regarding emissions from the asphalt plant operating at VHCC. Upon contacting the complainant, AQB received photos of stack emissions on multiple days from 2019 and 2020. Some of these photos clearly show a grayish plume above the water droplet plume exiting the VHCC stack. An AQB Inspector and the AQB Inspections Manager called the VHCC office on December 17, 2020. During that call, the owner disclosed that VHCC had been sold as of May 1, 2020. The new owner admitted that he had not submitted the required notice. He subsequently submitted the notice of ownership to the Department approximately eight (8) months after purchase of the facility. The AQB received the change of ownership letter from the new owner on December 28, 2020.

Conclusion: The failure of VHCC’s new owner to notify the Department within thirty (30) days of the new owner’s name and address is in violation of NSR Permit 0844M1, General Condition 3., *Notification to Subsequent Owners*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Company: Vernon Hamilton Construction Co.
Facility: Gallup Office Yard
NOV #: VHCC-1748-2101
Permit #: NSR 0844M1

Inspection By: Brian Polgar
Date of Discovery: August 3, 2021
NOV Prepared By: Teri Waldron
NRV, FRV or HPV: FRV

VIOLATION 5: NSR Permit 0844M1, Specific Condition 1.c., *Construction/ Modification/ Revision and Operation*

Number of Claims: 5

Requirement: NSR Permit 0844M1, Specific Condition 1.c. *Construction/ Modification/ Revision and Operation* states, "The drum mix asphalt plant is authorized to operate 9 hours a day (daylight hours only) for a total of 3285 hours per year, calculated as a rolling 365-day total."

Description: On August 3, 2021, an Air Quality Bureau (AQB) inspector performed an onsite inspection of the VHCC Gallup Office Yard. The AQB inspector requested operating records from January 1, 2021, until July 31, 2021, which the VHCC General Manager furnished and photocopied for him.

According to the records reviewed in Santa Fe on August 4, 2021, the asphalt plant operated for more than 9 hours on July 13 (10 hours, 45 minutes), July 14 (10 hours), and July 15, 2021 (9 hours, 30 minutes). In addition, on 2 of those days (July 13 and 15), the burner start time recorded in the operating records was prior to sunrise. On July 13, the operating logs record a burner start time of 05:45; the sunrise at that location was 06:09. On July 15, the burner start time is recorded as 06:00; the sunrise was 06:10. Sunrise was determined by inputting latitude and longitude at https://www.calculatorsoup.com/calculators/time/sunrise_sunset.php.

Conclusion: The failure of VHCC to operate the asphalt plant no more than the authorized 9 hours a day and operate during daylight hours only is in violation of NSR Permit 0844M1, Specific Condition 1.c., *Construction/ Modification/ Revision and Operation*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation (NOV):

1. VHCC shall provide to the Department operating hours for the asphalt plant for all operating days from August 1, 2021 through the issuance date of this NOV.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Company: Vernon Hamilton Construction Co.
Facility: Gallup Office Yard
NOV #: VHCC-1748-2101
Permit #: NSR 0844M1

Inspection By: Brian Polgar
Date of Discovery: August 3, 2021
NOV Prepared By: Teri Waldron
NRV, FRV or HPV: FRV

VIOLATION 6: NSR Permit 0844M1, Specific Condition 1.d., *Construction/ Modification/ Revision and Operation*

Number of Claims: 18

Requirement: NSR Permit 0844M1, Specific Condition 1.d., *Construction/ Modification/ Revision and Operation* states, "The screening plant is authorized to operate 8 hours per day (during daylight hours only), for a total of 2920 hours per year, calculated as a daily rolling 365-day total."

Description: On August 3, 2021, an AQB Inspector performed an onsite inspection of the VHCC Gallup Office Yard. The AQB inspector requested operating records from January 1, 2021, until July 31, 2021, which the General Manager furnished and photocopied for him.

According to the records reviewed in Santa Fe on August 4, 2021, the screening plant operated 43 days between March 1 and May 26, 2021. This facility did not produce asphalt nor screen material over the winter and has no records after May 26, 2021. Of the 43 operating days recorded in the screening plant logs, 18 days list a total operating time of more than 8 hours. On these 18 operating days the range of total operating times recorded is from 8 hours, 30 minutes to 12 hours, 30 minutes. Ten of the 18 days are between 8 ½ and 9 hours of operation; 7 of the days are between 9 hours and 9 hours, 35 minutes; and one day recorded 12 ½ hours.

Conclusion: The failure of VHCC to operate the screening plant within the authorized 8 hours a day is in violation of NSR Permit 0844M1 Specific Condition 1.d., *Construction/ Modification/ Revision and Operation*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide operating hours for the screening plant for August 1, 2021 through the issuance date of this NOV.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

CORRECTIVE ACTION VERIFICATION

This form must be completed for each Violation, signed by the facility's Responsible Official or other designee, and returned within 30 days of the receipt of the Notice of Violation. All Corrective Actions must be completed according to each violation's corrective action instructions. Documentation for corrective actions (in addition to this form) must be submitted electronically no later than the dates specified for each violation. Submit this form and all required documentation to:

Teri Waldron
Teri.Waldron@state.nm.us

I hereby verify that VHCC has initiated the required corrective actions outlined in this Notice of Violation. The following corrective actions have been taken or will be taken by the dates indicated below for each violation. All required documentation will be submitted electronically by the due dates specified for each corrective action requirement.

Signature

Date

Printed Name:
Title:

VIOLATION 1: Failure to record hours of operation and productions rates for seven (7) days and failure to record daily rolling 365-day totals for the screening plant on 43 days, pursuant to NSR Permit 0844M1 Specific Condition 4.a.i. and ii., *Recordkeeping*.

Corrective Action Required: VHCC shall identify the cause(s) of these violations as well as the actions taken to prevent the recurrence of the violations.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide the following screening plant records for August 2021 through the issuance date of this NOV: the hours of operation (daily, from startup to shutdown times), the daily rolling 365-day total hours of operation, and daily production rates recorded at the end of each operating day.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Cause(s) of violation:

Required Corrective Action taken to date:

- 1.
- 2.

Documentation submitted with this report:

Required Corrective Action planned (include date action will be completed):

- 1.
- 2.

Documentation to be submitted by the dates indicated above:

Additional corrective actions taken or planned to prevent recurrence of this violation:

VIOLATION 2: Failure to monitor and record the daily frequency of the application of water or equivalent control measures used to minimize emissions on haul roads, pursuant to NSR Permit 0844M1 Specific Condition 4.a.iii, *Recordkeeping*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide records of the daily frequency and amount of water application to the haul roads for all of 2021 and 2022 (through the issuance date of this NOV) on days the plant was operating. If rain occurred on that operating day (or the night before), or the plant did not operate (screening or asphalt) indicate such on the log.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Cause(s) of violation:

Required Corrective Action taken to date:

- 1.
- 2.

Documentation submitted with this report:

Required Corrective Action planned (include date action will be completed):

- 1.
- 2.

Documentation to be submitted by the dates indicated above:

Additional corrective actions taken or planned to prevent recurrence of this violation:

VIOLATION 3: Failure to record the name of the person responsible for recording the pressure drop readings across the wet scrubber, pursuant to NSR Permit 0844M1, Specific Condition 4.b., *Recordkeeping*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide all records of pressure drop readings across the wet scrubber for 2021 and 2022 (through the issuance date of this NOV) with the name of the person recording the pressure drop readings included for each reading.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Cause(s) of violation:

Required Corrective Action taken to date:

- 1.
- 2.

Documentation submitted with this report:

Required Corrective Action planned (include date action will be completed):

- 1.
- 2.

Documentation to be submitted by the dates indicated above:

Additional corrective actions taken or planned to prevent recurrence of this violation:

VIOLATION 4: Failure of new owner to notify the Department within thirty (30) days of the new owner's name and address, pursuant to NSR Permit 0844M1, General Condition 3., *Notification to Subsequent Owners*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Cause(s) of violation:

Required Corrective Action taken to date:

- 1.
- 2.

Documentation submitted with this report:

Required Corrective Action planned (include date action will be completed):

- 1.
- 2.

Documentation to be submitted by the dates indicated above:

Additional corrective actions taken or planned to prevent recurrence of this violation:

VIOLATION 5: Failure to operate the asphalt plant no more than the authorized 9 hours a day and operate during daylight hours only, pursuant to NSR Permit 0844M1, Specific Condition 1.c., *Construction/ Modification/ Revision and Operation*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation (NOV):

1. VHCC shall provide to the Department operating hours for the asphalt plant for all operating days from August 1, 2021 through the issuance date of this NOV.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Cause(s) of violation:

Required Corrective Action taken to date:

- 1.
- 2.

Documentation submitted with this report:

Required Corrective Action planned (include date action will be completed):

- 1.
- 2.

Documentation to be submitted by the dates indicated above:

Additional corrective actions taken or planned to prevent recurrence of this violation:

VIOLATION 6: Failure to operate the screening plant within the authorized 8 hours a day, pursuant to NSR Permit 0844M1 Specific Condition 1.d., *Construction/ Modification/ Revision and Operation*.

Corrective Action Required: VHCC shall identify the cause(s) of this violation as well as the actions taken to prevent the recurrence of this violation.

The following additional corrective actions shall be completed within 30 days of the receipt of this Notice of Violation:

1. VHCC shall provide operating hours for the screening plant for August 1, 2021 through the issuance date of this NOV.
2. VHCC shall provide documentation that all personnel have been trained in all permit requirements. Include the date and time of training, the names of the personnel, and the topics covered.

Cause(s) of violation:

Required Corrective Action taken to date:

- 1.
- 2.

Documentation submitted with this report:

Required Corrective Action planned (include date action will be completed):

- 1.
- 2.

Documentation to be submitted by the dates indicated above:

Additional corrective actions taken or planned to prevent recurrence of this violation: