



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV - 7 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Caudle
Terminal Manager
Watco Terminal and Port Services
2926 East 126th Street
Chicago, Illinois 60633

Re: Administrative Order EPA-5-20-113(a)-IL-01 **CAA-05-2020-0001**

Dear Mr. Caudle:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-6073.

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Nicole Cantello/C-14J
Susan Franzetti, Nijman Franzetti
Julie Armitage, Illinois EPA
Mort Ames, City of Chicago

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

CAA-05-2020-0001



In the Matter of:) EPA-5-20-113(a)-IL-01
)
Watco Terminal and Port Services) Proceeding Under Sections 113(a)(1)(3) and
Chicago, Illinois) 114(a)(1) of the Clean Air Act, 42 U.S.C.
) §§ 7413(a)(1)(3) and 7414(a)(1)
_____)

Administrative Consent Order

1. The Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Watco Terminal and Port Services (Watco) under Sections 113(a)(1)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(1)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.
3. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rules 101 and 102 as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842. IPCB Rule 101 has been recodified at 35 Illinois Administrative Code (Ill. Admin. Code) § 201.102. IPCB Rule 102 has been recodified at 35 Ill. Admin. Code § 201.141.
4. The Illinois SIP at 35 Ill. Admin. Code § 201.141 provides, in pertinent part, that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

5. The Illinois SIP at 35 Ill. Admin. Code § 201.102 defines “Ambient Air Quality Standard” as those standards promulgated from time to time by the IPCB pursuant to authority contained in the Illinois Environmental Protection Act and found at 35 Ill. Adm. Code 243, or by the U.S. Environmental Protection Agency pursuant to authority contained in 42 U.S.C. 7401 *et seq.* as amended from time to time.
6. The Illinois SIP at 35 Ill. Admin. Code § 201.102 defines “Air Pollution” as the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.
7. Under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413 (a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP.

Findings

8. Watco is a bulk material storage handling facility that is located at 2926 East 126th Street, Chicago, Illinois (the Facility).
9. The Facility currently performs loading and unloading, and occasional screening operations of various materials, including materials that contain manganese. As of February 15, 2019, the Facility has not unloaded any non-packaged manganese-bearing material with a manganese concentration of greater than 2 percent (2%), and as of April 25, 2019, the Facility has discontinued the use of its automated crusher.
10. Watco is subject to the Illinois SIP at 35 Ill. Admin. Code § 201.141, which states that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other

sources, to cause or tend to cause air pollution in Illinois or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

11. Watco is subject to the requirements of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a).
12. On May 15, 2018, EPA issued a CAA Section 114 Information Request (“114 Request”) to Watco. The 114 Request required Watco to install, operate, and maintain a PM₁₀ filter-based monitor, referred to as a Federal Reference Method (“FRM”) monitor, and a meteorological station at the Facility.
13. On September 14, 2018, Watco began conducting FRM monitoring and submitting monthly results to EPA pursuant to the 114 Request.
14. On December 18, 2018, EPA issued to Watco a Notice of Violation (NOV) alleging that it violated the Illinois SIP at 35 Ill. Admin. Code § 201.141 for causing emissions of manganese into the air, so as, either alone or in combination with contaminants from other sources, to cause or tend to cause, Air Pollution in Illinois.
15. On February 20, 2019, representatives of Watco and EPA discussed the December 18, 2018, NOV. Watco denies the allegations in the NOV that it violated the Illinois SIP or the CAA. Watco’s FRM monitoring data reports that from October 1, 2018 through September 30, 2019, the 12-month rolling average manganese concentration is 0.216 micrograms per cubic meter (µg/m³).
16. For purposes of this Administrative Consent Order, the term “Affected Materials” is defined as any non-packaged bulk materials containing manganese at concentrations greater than 2%. Affected Materials shall not include (1) any packaged materials handled or stored at the facility; or (2) any material that contains manganese, such as steel ingots, that is not a source of stack or fugitive emissions containing ferromanganese or manganese compounds.

17. In February 2019, Watco decided to cease handling and/or storing Affected Materials at the Facility. Watco has not received any new Affected Materials at its Facility since February 15, 2019. As of October 2019, approximately 1,792 tons of Affected Materials remain at the Facility and all of the remaining Affected Materials are enclosed.

Compliance Program

18. By the effective date of this Order, Watco shall continue to demonstrate and maintain compliance with: (1) the Fugitive Dust Plan that Watco has most recently submitted to the City of Chicago; and, (2) the Clean Air Act at the Facility.
19. By January 31, 2020, Watco shall cease handling, storing, and shipping Affected Material at the Facility.
20. Within seven days after Watco ceases handling, storing, and handling Affected Materials at the Facility, Watco shall submit a status report to EPA certifying that all Affected Materials have been removed from the Facility and Affected Materials will no longer be received at the Facility during the life of this Order.
21. Watco shall continue monitoring and reporting the FRM monitoring results to the EPA pursuant to the same requirements stated in the 114 Request until the termination date of this Order. The 114 Request shall terminate on the same date as the Order, in accordance with Paragraph 34.
22. Watco shall review the FRM data collected monthly and for any days where the manganese concentration is greater than $0.3 \mu\text{g}/\text{m}^3$.
23. As of the effective date of this Order, within thirty days of the end of the month being reported, Watco shall provide monthly reports to the EPA documenting the amount of

Affected Materials (in tons) remaining at the Facility, if any, until Watco certifies to EPA that all Affected Materials have been removed from the Facility. Any information submitted to EPA regarding the volume of Affected Materials at the Facility may be subject to a claim of business confidentiality as described in Paragraph 30 of this Order.

24. Watco must send all reports required by this Order to:

Attention: Compliance Tracker (ECA-18J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

and

R5AirEnforcement@epa.gov,
miller.patrick@epa.gov,
cantello.nicole@epa.gov

General Provisions

25. Watco denies the factual allegations and legal conclusions contained in this Order.
26. This Order does not affect Watco's responsibility to comply with other federal, state, and local laws.
27. This Order does not restrict EPA's authority to enforce the CAA and its implementing regulations.
28. Failure to comply with this Order may subject Watco to penalties under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.
29. The terms of this Order are binding on Watco, its assignees and successors. Watco must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

30. Watco 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 Watco 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 CAA, 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.
31. 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. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.
32. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
33. Watco agrees to the terms of this Order. Watco waives any remedies, claims for relief, and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).
34. This Order is effective on the date of signature by the Region 5 Director of the Enforcement and Compliance Assurance Division. This Order shall be effective for a year unless the following conditions are met: (1) six months of monitoring data is collected, pursuant to

Paragraph 21 above, after Watco ceases handling, storing, and shipping Affected Material at its Facility; and, (2) the 12-month rolling average manganese concentration, as measured by the FRM monitor, is at or below $0.3 \mu\text{g}/\text{m}^3$.

Watco Terminal and Port Services



10.24.19

Date

[Steven Caudle]
[Terminal Manager]
Watco Terminal and Port Services

United States Environmental Protection Agency

11/07/2019
Date

Michael D. Harris
Michael D. Harris
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF MAILING

I certify that I sent the Administrative Consent Order, EPA-5-20-113(a)-IL-01, by certified mail, return receipt requested, to:

Steve Caudle, Terminal Manager
Watco Terminal and Port Services
2926 East 126th Street
Chicago, Illinois 60633

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-20-113(a)-IL-01, by E-mail to:

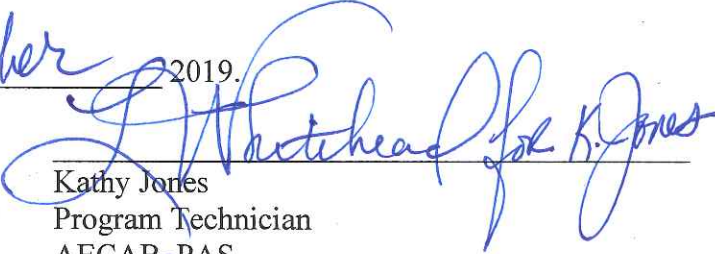
Susan Franzetti
Nijman Franzetti, LLP
10 S. LaSalle St., Suite 3600
Chicago, Illinois 60603
sf@nijmanfranzetti.com

Julie Armitage
Chief
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794
Julie.Armitage@Illinois.gov

Mort Ames
City of Chicago Law Department
Assistant Corporation Counsel Supervisor
30 N. La Salle Street, Suite 1400
Chicago, Illinois 60602
Mort.Ames@cityofchicago.org

On the 7 day of November 2019.

CAA-05-2020-0001


Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7018 3090 0002 2526 7549