UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 20 2018

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Austin Zenere
Chicago Rail and Port, LLC
3245 East 103rd Street
Chicago, Illinois 60617

Re: Notice of Violation
Chicago Rail and Port, LLC

Dear Mr. Zenere:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Chicago Rail and Port, LLC (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). EPA finds that you are violating the Illinois State Implementation Plan at your Chicago, Illinois facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV prior to the conference date.

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

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The EPA contact in this matter is Molly Smith, (312) 353-8773, or Patrick Miller, (312) 886-4044. You may call at either to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Edward Nam
Director
Air and Radiation Division

Enclosure

cc: Julie Armitage, Chief, Bureau of Air, Illinois Environmental Protection Agency, Julie.Armitage@Illinois.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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|---|---|---|
| **IN THE MATTER OF:** | ) | |
| | ) | |
| Chicago Rail and Port, LLC | ) | **NOTICE OF VIOLATION** |
| Chicago, Illinois | ) | |
| | ) | **EPA-5-18-IL-10** |
| Proceedings Pursuant to | ) | |
| Section 113(a)(1) of the | ) | |
| Clean Air Act, 42 U.S.C. | ) | |
| § 7413(a)(1) | ) | |

## NOTICE OF VIOLATION

The U.S. Environmental Protection Agency is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1). EPA finds that Chicago Rail and Port, LLC (CRP) is violating the Illinois State Implementation Plan (SIP), as follows:

### Statutory and Regulatory Background

1. Pursuant to Sections 108 and 109 of the CAA, 42 U.S.C. §§ 7408 and 7409, EPA reaffirmed the National Ambient Air Quality Standards (NAAQS) for particulate matter equal to or less than 10 microns in diameter ($PM_{10}$) on October 17, 2006. 71 *Fed. Reg.* 61224 (2006).

2. The revised national primary and secondary ambient air quality standard for $PM_{10}$ is 150 micrograms per cubic meter ($\mu g/m^3$), 24-hour average concentration.

3. Appendix K to 40 C.F.R. Part 50 explains the computations necessary for analyzing particulate matter data to determine attainment of the 24-hour standards specified in 40 C.F.R. § 50.6.

### Illinois SIP

4. 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.

5. On February 21, 1980, EPA approved the IPCB Rule 203(f)(1) as part of the federally enforceable SIP for the State of Illinois. 45 *Fed. Reg.* 11493 (February 21, 1980). IPCB Rule 203(f)(1) has been recodified at 35. Ill. Admin. Code § 212.301.

6. 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.

7. 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 EPA pursuant to authority contained in 42 U.S.C. § 7401 et seq. as amended.

8. 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, characteristics and duration so 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.

9. The Illinois SIP at 35 Ill. Admin. Code § 243.120 incorporated the 24-hour NAAQS for $PM_{10}$ as 150 $\mu g/m^3$, 24-hour average concentration. The primary and secondary NAAQS for $PM_{10}$ are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one.

10. The Illinois SIP at 35 Ill. Admin. Code § 243.102 defines "$PM_{10}$" as particulate matter that has an aerodynamic diameter less than or equal to a nominal 10 micrometers ($\mu m$).

11. The Illinois SIP at 35 Ill. Admin. Code § 243.120 incorporates by reference Appendix K to 40 C.F.R. Part 50 (2013) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter).

## Factual Background

12. CRP owns and operates a bulk solid storage and handling facility 3245 East 103rd Street, Chicago, Illinois. The facility operates storage piles, roadways, material handling operations, and loading and unloading operations that emit particulate matter, including $PM_{10}$.

13. On March 1, 2017, S.H. Bell Company, Chicago, Illinois (S.H. Bell), began operating a meteorological station and a $PM_{10}$ ambient air monitoring network at 10218 South Avenue O, Chicago, Illinois (Monitoring Network). The Monitoring Network includes four continuous Federal Equivalence Method (FEM) $PM_{10}$ monitors and one filter-based Federal Reference Method (FRM) monitor. The monitors are located at the following locations:

    a. FEM, S1, 41.708239, -87.544058;
    b. FEM, S2, 41.710553, -87.539204;
    c. FEM, S3, 41.710552, -87.542043;
    d. FEM and FRM, S4, 41.711541, -87.539607; and
    e. Meteorological station, 41.709841, -873540376.

14. On January 16, 2018, S.H. Bell submitted meteorological data and Monitoring Network data for the month of December 2017 from the four FEM monitors. The data submissions included the southernmost monitor, S1.

15. The December 2017 Monitoring Network data showed that on December 4, 2017, the 24-hour $PM_{10}$ average concentration was 179 $\mu g/m^3$ at monitor S1.

16. The December 4, 2017, Monitoring Network meteorological data shows the wind was from the south and averaged over 15 miles per hour (mph).

17. EPA inspected the CRP facility on February 1, 2018, and confirmed bulk solid limestone storage piles in the northern portion of the CRP site, near S1 of the Monitoring Network.

18. During the February 1, 2018, inspection, CRP provided copies of the Reference Method 22 Daily Observation Checklist. The checklist for December 4, 2017, indicated 25 loads of limestone were shipped during wind gusts of 20 – 38 mph.

## Violations

19. CRP caused the emission of $PM_{10}$ 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 and/or to prevent the maintenance of the revised NAAQS for $PM_{10}$ in violation of the Illinois SIP at 35 Ill. Admin. Code § 201.141

## Environmental Impact of Violations

20. These violations have caused or can cause excess emissions of particulate matter: Particulate matter, especially fine particulates contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:
    - irritation of the airways, coughing, and difficulty breathing;
    - decreased lung function;
    - aggravated asthma;
    - chronic bronchitis;
    - irregular heartbeat;
    - nonfatal heart attacks; and
    - premature death in people with heart or lung disease.

4/20/18
Date

Edward Nam
Director
Air and Radiation Division

United States Environmental Protection Agency

Office of Enforcement and Compliance Assurance
EPA-300-B-17-001 June 2017

# U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

**Office of Small and Disadvantaged Business Utilization (OSDBU)**
www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSBBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

**EPA's Asbestos Small Business Ombudsman (ASBO)**
www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

**Small Business Environmental Assistance Program**
https://nationalsbeap.org

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

**EPA's Compliance Assistance Homepage**
www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

**Compliance Assistance Centers**
www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

**Agriculture**
www.epa.gov/agriculture

**Automotive Recycling**
www.ecarcenter.org

**Automotive Service and Repair**
www.ccar-greenlink.org or 1-888-GRN-LINK

**Chemical Manufacturing**
www.chemalliance.org

**Construction**
www.cicacenter.org

**Education**
www.campuserc.org

**Food Processing**
www.fpeac.org

**Healthcare**
www.hercenter.org

**Local Government**
www.lgean.org

**Surface Finishing**
http://www.sterc.org

**Paints and Coatings**
www.paintcenter.org

**Printing**
www.pneac.org

**Ports**
www.portcompliance.org

**Transportation**
www.tercenter.org

**U.S. Border Compliance and Import/Export Issues**
www.bordercenter.org

**EPA Hotlines and Clearinghouses**
www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

**Clean Air Technology Center (CATC) Info-line**
www.epa.gov/catc or 1-919-541-0800

**Superfund, TRI, EPCRA, RMP, and Oil Information Center**
1-800-424-9346

**EPA Imported Vehicles and Engines Public Helpline**
www.epa.gov/otaq/imports or 1-734-214-4100

**National Pesticide Information Center**
www.npic.orst.edu or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - http://nrc.uscg.mil or 1-800-424-8802

**Pollution Prevention Information Clearinghouse (PPIC)** - www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

**Safe Drinking Water Hotline** - www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

**Toxic Substances Control Act (TSCA) Hotline**
tsca-hotline@epa.gov or 1-202-554-1404

**Small Entity Compliance Guides**
https://www.epa.gov/reg-flex/small-entity-compliance-guides

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

**Regional Small Business Liaisons**
www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

**State Resource Locators**
www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

**State Small Business Environmental Assistance Programs (SBEAPs)**
https://nationalsbeap.org/states/list

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

**EPA's Tribal Portal**
www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

**EPA Compliance Incentives**
EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

**EPA's Small Business Compliance Policy**
www.epa.gov/enforcement/small-businesses-and-enforcement

**EPA's Audit Policy**
www.epa.gov/compliance/epas-audit-policy

**Commenting on Federal Enforcement Actions and Compliance Activities**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

**Your Duty to Comply**

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

***EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.***

## CERTIFICATE OF MAILING

I certify that I sent a Notice of Violation, No. EPA-5-18-IL-10 by Certified Mail, Return Receipt Requested, to:

Austin Zenere
Chicago Rail and Port, LLC
3245 East 103rd Street
Chicago, Illinois 60617

I also certify that I sent copies of the Notice of Violation to:

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
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Dave Graham
Chicago Department of Public Health
Assistant Commissioner
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Dave.Graham@cityofchicago.org

On the 23rd day of April 2018.

Kathy Jones

Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7641 3428