



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

JUN 29 2018

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Saldarelli, Jr.
Director of Environmental Compliance
Midwest Marine Terminals
19001 Old Lagrange Road
Mokena, Illinois 60448

Re: Administrative Order EPA-5-18-113(a)-IL-03

Dear Mr. Saldarelli, Jr.:

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 marshall.sarah@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Marshall", is written over a horizontal line.

Sarah, Marshall, Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Nicole Cantello/C-14J
Julie Armitage, Chief, Bureau of Air, Illinois Environmental Protection Agency
Mort Ames, City of Chicago, Department of Law
Dave Graham, Assistance Commissioner, Chicago Department of Public Health

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-18-113(a)-IL-03
)	
Midwest Marine Terminals, Inc.)	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 Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Administrative Consent Order (Order) to Midwest Marine Terminals, Inc. (MMT) 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. The CAA, 42 U.S.C §§ 7401, et seq., and the regulations promulgated thereunder, establish a statutory and regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population.
4. On February 21, 1980, EPA approved 35 Ill. Admin. Code § 212.301 as part of the federally enforceable State Implementation Plan (SIP) for Illinois. 45 Fed. Reg. 11493.
5. Illinois SIP Rule 212.301 states, "[n]o person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage

activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the emission source.”

6. On February 21, 1980, EPA approved 35 Ill. Admin. Code § 212.306 as part of the federally enforceable SIP for Illinois. 45 Fed. Reg. 11493.
7. Illinois SIP Rule 212.306 states, “All normal traffic pattern access areas surrounding storage piles specified in Rule 203(f)(3)(A) [Section 212.304] and all normal traffic pattern roads and parking facilities which are located on mining or manufacturing property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Rule 203(f)(3)(F) [Sections 212.309, 212.310 and 212.312].”
8. 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.
9. The Administrator of EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Allegations and Findings

10. MMT owns or operates a bulk solid storage and handling facility at 11701 South Torrence, Chicago, Illinois (Facility).

11. MMT is registered in the Registration of Smaller Sources (ROSS) Program with the Illinois Environmental Protection Agency (IEPA). The ROSS Program is detailed at 35 Ill. Adm. Code 201.175.
12. Emissions from the Facility are subject to fugitive dust requirements in the Illinois SIP at 35 Ill. Admin. Code § 212.301.
13. Emissions from the Facility's roadways are subject to the fugitive dust requirements in the Illinois SIP at 35 Ill. Admin. Code § 212.306.
14. MMT owns or operates an "emission source" within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, MMT is subject to the requirements of Section 114(a)(1).
15. EPA issued a Notice of Violation (NOV) on September 19, 2017, and later re-issued the NOV under the name of MMT on November 9, 2017, alleging that it violated the Illinois SIP at 35 Ill. Admin. Code § 212.301, for failure to control fugitive dust from the Facility, and the Illinois SIP at 35 Ill. Admin. Code § 212.306, for failure to control dust from the roadways and traffic areas at the Facility.
16. On October 17, 2017, MMT sent correspondence to EPA denying the alleged violations, and prior to that date requested a meeting with EPA.
17. On October 19, 2017, representatives of MMT and EPA met and discussed the September 19, 2017, NOV.
18. MMT represents that it has entered into this Order for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Order and complying with its terms, MMT does not

affirmatively admit the allegations of violation referenced herein and this Order shall not be interpreted as including such admission.

Compliance Program

19. By the effective date of this Order, MMT must achieve, demonstrate and maintain compliance with the Illinois SIP and the CAA at its Chicago, Illinois facility.
20. By the date which is one year from the Effective Date of this Order, MMT shall complete the concrete paving of those roadways identified in the map in Appendix A.
21. Within 30 days from the completion of all paving required by Paragraph 20, MMT shall send a completion report to EPA in accordance with Paragraph 29.
22. By the date which is 30 days from the Effective Date of this Order and for the duration of this Order, MMT shall conduct EPA Reference Method 22 observations once per day at all areas where activity is occurring, as well as from each bulk storage pile on site.
23. MMT will submit all daily dust monitoring records, daily sweeping logs, and daily watering logs including, all Method 22 and Method 9 observations maintained in accordance with the Facility's Fugitive Dust Plan (FDP) to EPA on a quarterly basis, in accordance with the requirements in Paragraph 29.
24. MMT shall apply chemical dust suppressants to all unpaved roadways at least twice per year, in the late Spring and Fall, and shall make a third application in the Summer, if necessary. An annual chemical dust suppressant application schedule shall be included in the FDP.
25. By the date which is one year from the Effective Date of this Order, MMT shall complete the construction of a new storage building at the Facility, the location of which is

depicted in Appendix A. The new storage building will primarily be used to store fertilizer.

26. By the date which is 60 days from the Effective Date of this Order, MMT shall install a station which wets all wheels at all exits of the Facility. MMT will maintain the station as a way to reduce fugitive emissions on roadways. MMT will ensure all trucks leaving the Facility pass through the station, during non-freezing weather conditions.
27. By the date which is 30 days from the Effective Date of this Order, MMT shall make the following updates to the Facility's FDP:
 - a. Employ minimal drop heights when loading or transporting bulk materials at the Facility.
 - b. When reasonable, the Facility will load and unload bulk materials indoors.
 - c. Watering shall occur on all roadways identified in Appendix A at least once per day, weather permitting, and as needed. Watering logs shall be maintained.
 - d. Sweeping shall occur as needed on all paved roadways. Sweeping does not replace the need for water, but can be used as a supplement when material has built-up on the roadways. Sweeping logs shall be maintained.
 - e. MMT shall monitor the ingress and egress roadways to the facility and shall sweep same when needed.
 - f. A revised copy of the FDP, will be provided to EPA in accordance with the requirements in Paragraph 29.
28. MMT must submit all records and reports required by this Order under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1).
29. MMT must send all records and reports required by this Order to:

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

and smith.molly@epa.gov, R5AirEnforcement@epa.gov, and cantello.nicole@epa.gov.

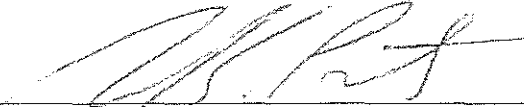
General Provisions

30. This Order does not affect MMT's responsibility to comply with other federal, state, and local laws.
31. This Order does not restrict EPA's authority to enforce the CAA and its implementing regulations.
32. The terms of this Order are binding on MMT, its assignees and successors. MMT 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.
33. MMT 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 MMT 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.
34. 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.

35. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
36. MMT agrees to the terms of this Order. MMT 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).
37. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that MMT has complied with all terms of the Order throughout its duration.


Midwest Marine Terminals, Inc.

June 26, 2018
Date


Richard S. Porter
Attorney for Midwest Marine Terminals, Inc.

United States Environmental Protection Agency

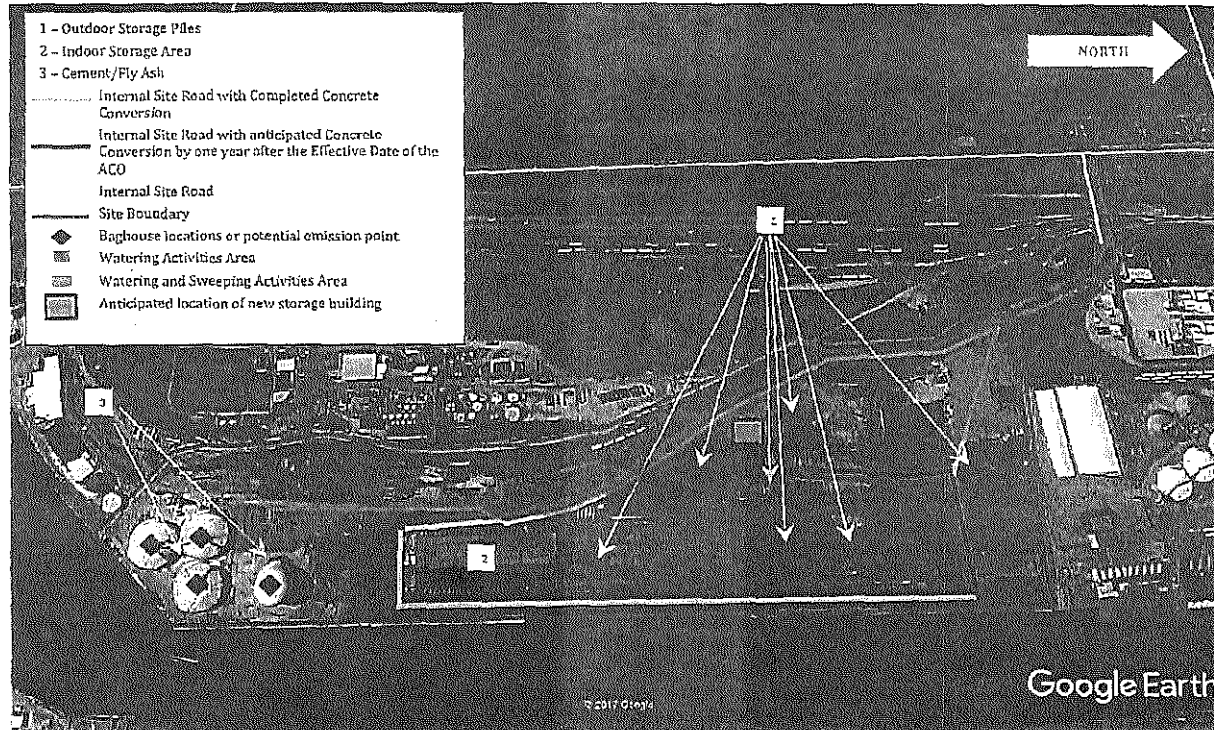
6/29/18
Date


Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Appendix A

Map of Midwest Marine Terminals

Midwest Marine Terminals Inc. Site Layout as Date of Plan



CERTIFICATE OF MAILING

I certify that I sent the Administrative Consent Order, EPA-5-18-113(a)-IL-03, by certified mail, return receipt requested, to:

Michael Saldarelli, Jr.
Director of Environmental Compliance
Midwest Marine Terminals
19001 Old Lagrange Road
Mokena, Illinois 60448

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-18-113(a)-IL-03, by E- mail to:


Julie Armitage, Chief
Bureau of Air
Illinois Environmental Protection Agency
julie.armitage@Illinois.gov

Mort Ames
Assistant Corporation Counsel Supervisor
City of Chicago Law Department
Mort.Ames@cityofchicago.org

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

Richard Porter
Hinshaw & Culbertson LLP
rporter@hinshawlaw.com

On the 29th day of June 2018.



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7017 0660 000 3661 7475

