



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

**MAR 23 2017**

REPLY TO THE ATTENTION OF:

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

Andy Hixson, Plant Manager  
Skyway Cement Company  
3020 East 103<sup>rd</sup> Street  
Chicago, Illinois 60617

Re: Notice of Violation  
Skyway Cement Company  
Chicago, Illinois

Dear Mr. Hixson:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Skyway Cement Company (Skyway Cement or you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated the Illinois State Implementation Plan, at your 3020 East 103<sup>rd</sup> Street, Chicago, Illinois facility.

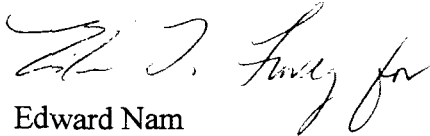
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

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, 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.

The EPA contacts in this matter are Patrick Miller at (312) 886-4044 and Linda H. Rosen at (312) 886-6810. You may call either to request a conference. You should make the request within 10 calendar days following receipt of this letter. Communications by counsel should be directed to Nicole Cantello at (312) 886-2870. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Nam", written in black ink.

Edward Nam  
Director  
Air and Radiation Division

Enclosure

cc: Yasmine Keppner-Bauman, Acting Manager  
Compliance Unit  
Bureau of Air  
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	<b>NOTICE OF VIOLATION</b>
	)	
Skyway Cement Company	)	<b>EPA-5-17-IL-04</b>
Chicago, Illinois	)	
	)	
Proceedings Pursuant to Section 113(a)(1)	)	
of the Clean Air Act,	)	
42 U.S.C. § 7413(a)(1)	)	

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**NOTICE OF VIOLATION**

The U. S. Environmental Protection Agency (EPA) is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). EPA finds that Skyway Cement Company (Skyway Cement) is violating the Illinois State Implementation Plan (SIP) as follows.

**Statutory and Regulatory Authority**

1. 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.

**National Ambient Air Quality Standards**

2. Pursuant to Sections 108 and 109 of the CAA, 42 U.S.C. §§ 7408 and 7409, EPA revised the National Ambient Air Quality Standards (NAAQS) for particulate matter equal to or less than 10 microns in diameter (PM<sub>10</sub>) on October 17, 2006. 71 *Fed. Reg.* 61224 (October 17, 2006).

3. The revised national primary and secondary ambient air quality standard for PM<sub>10</sub> is 150 micrograms per cubic meter (µg/m<sup>3</sup>), 24-hour average concentration. *See* 40 C.F.R. § 50.6.

4. Appendix K to 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

5. 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 (May 31, 1972). 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.
6. On February 21, 1980, EPA approved 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.
7. 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.
8. The Illinois SIP at 35 Ill. Admin. Code § 212.301 provides, in pertinent part, that no 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.
9. 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.
10. 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.
11. The Illinois SIP incorporated the 24-hour NAAQS for PM<sub>10</sub> as 150 µg/m<sup>3</sup>, 24-hour average concentration. See 35 Ill. Admin. Code § 243.120.
12. The Illinois SIP at 35 Ill. Admin. Code § 201.102 defines “PM<sub>10</sub>” as particulate matter that has an aerodynamic diameter less than or equal to a nominal 10 micrometers (µm).
13. The Illinois SIP incorporates by reference Appendix K to 40 C.F.R. Part 50 (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in 35 Ill. Admin. Code § 243.120.

## **Factual Background**

14. Skyway Cement owns and operates a slag grinding facility located at 3020 East 103<sup>rd</sup> Street, Chicago, Illinois. The facility operates storage piles, conveyors, roadways, material handling operations, grinding operations, drying operations and loading and unloading operations that emit particulate matter including PM<sub>10</sub>.
15. KCBX Terminals Company's North Terminal (KCBX), located north of Skyway Cement, at 3259 East 100<sup>th</sup> Street, Chicago, Illinois, operated a bulk storage facility that ceased operations before July 1, 2015.
16. To evaluate the air impact of fugitive particulate matter from the KCBX North Terminal, EPA issued to KCBX, information requests under Section 114 of the CAA, 42 U.S.C. § 7414, dated November 15, 2013, April 14, 2014, and February 17, 2015, requiring KCBX to install, operate and maintain ambient continuous and filter-based PM<sub>10</sub> monitors and meteorological stations at its North and South Terminals.
17. On February 18, 2014, KCBX began operating four PM<sub>10</sub> monitors and a meteorological station at its North Terminal.
18. On March 13, 2014, KCBX submitted a Quality Assurance Project Plan in response to the November 15, 2013, Request which states on the cover page: "This document details a quality assurance plan to guide the successful implementation of Ambient Air Monitoring by URS Corporation at the KCBX Terminals Company North and South Terminals in Chicago, IL."
19. On November 3, 2015, KCBX submitted monitoring data to EPA for October 18, 2015 through October 24, 2015, which shows that on October 19, 2015, the northeast PM<sub>10</sub> continuous monitor at the North Terminal recorded a 24-hour average of 153 µg/m<sup>3</sup> and the southeast PM<sub>10</sub> continuous monitor at the North Terminal recorded a 24-hour average of 198 µg/m<sup>3</sup>.
20. The data from the meteorological station at the North Terminal indicated that the wind on October 19, 2015 was from the south-southwest at a speed of 13.4 to 17.9 miles per hour.
21. On November 3, 2015, KCBX submitted to EPA a video showing visible particulate matter emissions crossing the slip from Skyway Cement's property to KCBX's North Terminal on October 19, 2015.
22. On February 2, 2016, EPA issued to Skyway Cement a Request for Information and on March 3 and April 7, 2016, Skyway Cement responded to the Request.
23. In its response to EPA's Request for Information, Skyway Cement reported that on October 19, 2015, "dusting and debris from the edges of the Skyway property, as well as from KCBX, and salt dust from nearby salt piles, was occurring." The watering logs submitted in

response to EPA's Request showed that watering of the stock pile started at 9:30 a.m. and ended at 11:00 a.m. and watering of the roadways started at 9:30 a.m. and ended at 1:30 p.m. Skyway also alleged sweeping occurred but the times were not provided. Hourly PM<sub>10</sub> exceedances occurred from 7:00 a.m. to 2:00 p.m. and again at 8:00 p.m. Intermittent hourly PM<sub>10</sub> exceedances continued on October 20 and 21, 2015. Skyway performed no sweeping or watering on October 20 or 21, 2015.

### Violations

24. Skyway Cement caused the emission of PM<sub>10</sub> 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<sub>10</sub> in violation of the Illinois SIP at 35 Ill. Admin. Code § 201.141.

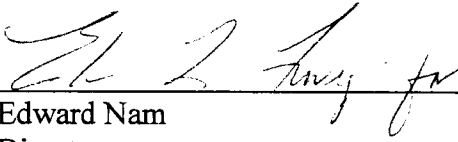
25. Skyway Cement caused or allowed the emission of fugitive particulate matter from its facility that was visible by an observer looking generally toward the zenith at a point beyond the property line of the facility, in violation of 35 Ill. Admin. Code § 212.301.

### Environmental Impact of Violations

26. Excess emissions of particulate matter contain microscopic solids or liquid droplets, which may 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.

3/23/17  
Date

  
\_\_\_\_\_  
Edward Nam  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Kathy Jones, do hereby certify that a Notice of Violation of the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:


Andy Hixson, Plant Manager  
Skyway Cement Company  
3020 East 103<sup>rd</sup> Street  
Chicago, Illinois 60617

I also certify that I sent copies of the NOV by first class mail to:

Yasmine Keppner-Bauman, Acting Manager  
Compliance Unit  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

Jeryl Olson, Attorney  
Seyfarth Shaw LLP  
55 East Monroe, Suite 4200  
Chicago, Illinois 60603

on the 24<sup>th</sup> day of March 2017.

  
Kathy Jones, Program Technician  
AECAB, Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7011150 0000 2641 0723