



DEPARTMENT OF PUBLIC HEALTH  
CITY OF CHICAGO

January 26, 2018

Steven H. Mosher, Vice President  
North America Stevedoring Company, LLC  
9301 S. Kreiter Avenue  
Chicago, IL 60617

RE: North America Stevedoring, 9301 S. Kreiter Avenue  
Request for Variances from Air Pollution Control Rules and Regulations for Control of  
Emissions from Handling and Storage of Bulk Material Piles

Dear Mr. Mosher,

The Chicago Department of Public Health ("CDPH") has reviewed your June 11, 2014 letter on behalf of North America Stevedoring Company, LLC ("NASCO"), requesting four variances from requirements of CDPH's Rules and Regulations for Control of Emissions from the Handling and Storage of Bulk Material Piles ("Bulk Material Regulations" or "regulations"), and supplemental materials in support of the variance request provided by NASCO dated February 24, 2015. Pursuant to the Bulk Material Regulations, CDPH accepted written comments on the variance request during a comment period which was extended, upon request of the public, to September 2, 2014, as further described below.

In the February 24, 2015 letter, NASCO withdrew one of the four initial requests. The three remaining variance requests relate to the following regulations:

1. Fugitive Dust Monitoring: NASCO requested a variance from Section 3.0(4) of the Bulk Material Regulations, which requires the installation, operation, and maintenance of permanent, continuous Federal Equivalent Method (FEM) real-time PM<sub>10</sub> monitors around the perimeter of the facility in accordance with specified requirements.
2. Wind Monitoring: NASCO requested a variance from Section 3.0(5) of the Bulk Material Regulations, which requires the installation, operation, and maintenance of a weather station or other permanent device to monitor and log wind speed and wind direction at the

Facility. NASCO stated that it has access to on-line real-time wind speed and direction information from Midway Airport and from a Lake Michigan Water Intake Crib.

3. Transfer Points: NASCO requested a variance from Section 3.0(7) of the Bulk Material Regulations which requires all material transfer points to a) be totally enclosed; b) be operated with a water spray system; c) be vented to air pollution control equipment; or d) transfer only “moist material” in a manner that minimizes the exposed drop. Specifically, NASCO objected to the requirement that only moist material be transferred, because some of its clients request a lower moisture content for fluorspar and ferromanganese.

### **SUMMARY OF CDPH VARIANCE DETERMINATIONS**

As set forth in greater detail in subsequent sections of this document, following is a summary of CDPH’s determinations for each of NASCO’s variance requests:

1. Fugitive Dust Monitoring: With respect to NASCO’s request regarding installation of dust monitors, for the reasons set forth below, CDPH finds that NASCO has failed to meet the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations for issuance of a variance, and the variance request is therefore denied. In summary, the basis for this determination includes, but is not limited to, CDPH’s finding that NASCO has not demonstrated that issuance of the variance will not create a public nuisance or adversely impact the surrounding area.

Importantly, CDPH found that NASCO’s implementation of its current Fugitive Dust Plan has not ensured the suppression of fugitive dust as evidenced by a recent City inspection. This information, combined with deficiencies identified in NASCO’s supporting materials, leads CDPH to conclude that NASCO has not established that the facility’s operations do not result in off-site fugitive dust emissions. Accordingly, the monitors required by Section 3.0(4) of the Regulations must be installed within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the Bulk Material Regulations.

2. Wind Monitoring: With respect to NASCO’s request regarding the installation of wind monitors, for the reasons set forth below, CDPH finds that NASCO has failed to meet the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations for issuance of a variance, and the variance request is therefore denied. In summary, the basis for this determination includes, but is not limited to, CDPH’s finding that off-site wind monitoring

data is not an adequate substitute for an on-site permanent wind monitoring device. Accordingly, NASCO must install a wind monitoring device that meets the requirements of Section 3.0(5) of the regulations, within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the regulations.

3. Transfer Points: With respect to NASCO's request regarding material transfer points, for the reasons set forth below, CDPH finds that NASCO has not demonstrated that issuance of a variance will not result in adverse impacts and, thus, has not met the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations. Therefore, the variance request is denied. In summary, the basis for this determination includes, but is not limited to, CDPH's finding that NASCO has not demonstrated that issuance of the variance will not create a public nuisance or adversely impact the surrounding area. Accordingly, NASCO must maintain transfer points in compliance with one of the specified measures set forth in Section 3.0(7), within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the regulations.

## **DETAILED DISCUSSION**

### **I. Requirements for Issuance of a Variance**

Under Section 8.0 of the Bulk Material Regulations, the burden of proof is upon the applicant for the variance to demonstrate that issuance of the requested variance will not create a public nuisance or adversely impact the surrounding area, the surrounding environment, or surrounding property uses. In the event that the applicant does not meet this burden, the variance request will be denied. Pursuant to Section 8.0(2), a variance request must be in writing and must set forth, in detail, all of the following (in pertinent part):<sup>1</sup>

- a) A statement identifying the regulation or requirement from which the variance is requested;

---

<sup>1</sup> Because the variance requests under review do not involve a request for an extension of time for full enclosure, requirement 8.0(2)(i) is not relevant to this discussion, and is therefore omitted.

- b) A description of the process or activity for which the variance is requested, including pertinent data on location, size, and the population and geographic area affected by, or potentially affected by, the process or activity;
- c) The quantity and types of materials used in the process or activity in connection with which the variance is requested, as appropriate;
- d) A demonstration that issuance of the variance will not create a public nuisance or adversely impact the surrounding area, surrounding environment, or surrounding property uses;
- e) A statement explaining:
  - i. Why compliance with the regulations imposes an arbitrary or unreasonable hardship;
  - ii. Why compliance cannot be accomplished during the required timeframe due to events beyond the Facility Owner or Operator's control such as permitting delays or natural disasters; or
  - iii. Why the proposed alternative measure is preferable.
- f) A description of the proposed methods to achieve compliance with the regulations and a timetable for achieving that compliance, if applicable;
- g) A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a variance;
- h) A statement regarding the person's current status as related to the subject matter of the variance request[.]

In addition, Section 8.0(3) of the Bulk Material Regulations sets forth the criteria for reviewing applications:

- a) In determining whether to grant a variance, the Commissioner [of CDPH] will consider public comments received pursuant to 8.0(4) and will evaluate the information provided in the application to meet the requirements of 8.0(2). Particular consideration will be given to the following information:
  - i. Inclusion of a definite compliance program;
  - ii. Evaluation of all reasonable alternatives for compliance;
  - iii. Demonstration that any adverse impacts will be minimal.

- b) The Commissioner may deny the variance if the application for the variance is incomplete or if the application is outside the scope of relief provided by variances.
- c) The Commissioner may grant a variance in whole or in part, and may attach reasonable conditions to the variance to ensure minimization of any adverse impacts.
- d) Issuance of a variance is at the sole discretion of the Commissioner. A variance may be revoked at any time if the Commissioner finds that operation of the Facility is creating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.

## **II. Variance Process and Public Comments**

In addition to the requirement that the Commissioner of CDPH (“Commissioner”) consider public comments, as set forth in Section 8.0(3)(a) of the Bulk Material Regulations, Section 8.0(5) also provides that the Commissioner will not grant any variance until members of the public have had an opportunity to submit written comments on the variance application. This section further provides that public notice will be provided by publication in a newspaper of general circulation published within the City and by publication on the City’s website, and that the Commissioner will accept written comments for a period of not less than thirty (30) days from the date of the notice.

On June 20, 2014, public notice of NASCO’s variance request was provided by publication in the Chicago Sun-Times and on the City’s website at [www.cityofchicago.org/environmentalrules](http://www.cityofchicago.org/environmentalrules). This notice stated that, to be considered, written comments must be received by CDPH on or before July 21, 2014. On July 16, 2014, a subsequent public notice was published in the same manner, notifying the public that the comment period had been extended upon request of members of the public. The new deadline for public comments was September 2, 2014. During the public comment period, CDPH received one written submission from the public, which is posted on the website referenced above.

The public comment letter, dated September 2, 2014, was submitted jointly by the Natural Resources Defense Council (“NRDC”) and the Southeast Environmental Task Force (“SETF”) (hereafter collectively referred to as “NRDC and SETF”). This letter, which urged a denial of the variance request, pointed out that more than 12,800 residents live within a one-mile

radius of NASCO's facility, including nearly 4,300 children, and that the facility is immediately adjacent to a park. The letter raised concerns about NASCO's handling of fluorspar and ferromanganese because of the exposure hazards as listed on the Material Safety Data Sheets for these materials. The commenters further stated that blast furnace iron, known as pig iron, should be considered a bulk solid material because iron oxides slough off this material causing particles that become airborne. In addition, the commenters noted that wind monitoring at the facility should be required, because relying on wind data from Midway Airport or a water intake crib in Lake Michigan, as proposed by NASCO, would not be representative of conditions on the site.

In response to CDPH's request for more information, and in response to the public comments, NASCO submitted additional information on February 24, 2015. This information is also posted on the above-referenced website.

### **III. Variance Requests and Determinations Detailed Analysis**

#### **1. Fugitive Dust Monitoring.**

A. Detailed Fugitive Dust Monitoring Variance Request: NASCO requested a variance from Section 3.0(4) of the Bulk Material Regulations, which requires installation and operation of permanent, continuous Federal Equivalent Method (FEM) real-time PM<sub>10</sub> monitors around the perimeter of all bulk material facilities. NASCO claimed that its "operations do not result in off-site fugitive dust emissions." (June 11, 2014 NASCO Variance Petition, p. 2.) NASCO further stated that a facility immediately to the east of NASCO is a "major source of fugitive dust" and that, therefore it would be "impossible for fugitive dust monitors to detect incremental fugitive dust emissions with such a large background source of fugitive dust immediately next door." *Id* at 3. NASCO also stated that "No residential properties are located within a half mile of the Facility," (*Id.*) and that, therefore, given the cost of air monitors, implementation of best management practices is "a more reasonable approach" to achieve compliance with the regulations. *Id* at 4.

NASCO further asserted that blast furnace iron (pig iron) does not meet the definition of a bulk solid material ("BSM") because the "residues are too dense to become airborne or be scattered by the wind." *Id* at 2. The company also pointed out that the other materials handled at the site, i.e. ferromanganese and fluorspar, are managed within enclosures. *Id.* In its supplemental materials, NASCO stated that, based on its own observations, its Fugitive Dust

Plan “is effective in mitigating dust from BSM activities.” (February 24, 2015 NASCO supplemental information, p. 2.)

B. Analysis of Variance Request:

i. Minimization of Adverse Impacts. Section 8.0(2)(d) of the Bulk Material Regulations requires a demonstration that issuance of a variance will not create a public nuisance or adversely impact the surrounding area, environment, or property uses. In this case, as pointed out by NRDC and SETF, more than 12,800 residents live within a one-mile radius of NASCO’s facility. Furthermore, the facility is near Calumet Park and shares an access road with the park. This access road also connects to densely populated residential streets.

In its variance application, NASCO asserted that: “Based on historic quantities handled and published emission factors, PM<sub>10</sub> emissions from BSM handling operations are negligible and insufficient to generate opacity greater than ten percent or fugitive dust visible beyond the property line of the facility.” (June 11, 2014 NASCO Variance Petition, p. 2.) NASCO further stated that ferromanganese and fluorspar materials “are dense with particles that settle quickly, within the vicinity of a transfer operation, and do not become windborne.” *Id.* In its Fugitive Dust Plan, the facility listed some dust control measures including the use of covered or enclosed conveyors; the transfer of moist materials in a manner that minimizes the exposed drop; the covering of trucks with a tarp; and the use of a street sweeper equipped with a water spray and vacuum system. (NASCO Fugitive Dust Plan p. 4-5.)

When asked to provide evidence of the effectiveness of its Fugitive Dust Plan, NASCO submitted copies of sweeping logs and daily cleaning logs, which NASCO stated “demonstrate the Plan is being implemented and that activities do not create public nuisance or adversely impact the surrounding area, environment, or property uses.” (February 24, 2015 NASCO supplemental information, p. 2.) However, the sweeping logs listed only dates, not times, and general areas that were swept on each date (e.g. “scale area,” “maintenance area,” “main gate,” “B house,” etc.). The logs did not indicate compliance with Rule 3.0(15)(c) of the Bulk Material Regulations, which requires that:

Each 24 hour day, the day beginning at 12:01 A.M., the Facility Owner or Operator shall document whether for that day the Facility Owner or Operator is street sweeping every four hours or every 100 trucks, or

whether the roads are free and clear of any material transported to or from the Facility. The record shall show the date and time when street sweeping was performed and the truck count, as applicable.

Likewise, the daily cleaning logs were very general with limited observations of only three general areas: “paving,” “trucks,” and “dock.” There was no indication of compliance with Rule 3.0(17)(g), which requires facilities to:

Maintain a schedule for routine inspection, maintenance, and testing of all control measures, devices, and technologies, including a schedule for inspection of Bulk Solid Material piles, inspection of all monitors, and inspection of off-site areas for the presence of dust; and identify the person or persons responsible for such inspections, maintenance, and testing.

Additionally, there was no mention of quarterly visual or opacity observations as required by Rule 3.02(d), nor any mention of observations of stockpiles, loading, unloading, transferring, or any other material handling activity that might generate dust. Simply logging, once per day, whether or not certain areas of the site need to be cleaned does not establish that the Fugitive Dust Plan is effective.

In fact, a recent City inspection found that NASCO was not taking steps to adequately control dust. On October 30, 2017, CDPH conducted a joint inspection with the U.S. Environmental Protection Agency and observed uncontrolled fugitive dust emissions from the handling of manganese-bearing material. Specifically, the inspector noted that: “There was heavy manganese dust from manganese loading operations into trucks (see photo #s 1, 2, 3, 4, 5, 6, & 7).” (See Exhibit A.) The inspector also observed that: “The access roads were very dry and accumulated with particulate dust (see photo #s 8 & 9).” *Id.*

Therefore, it is apparent that NASCO’s best management practices are not effective to minimize fugitive dust. Notably, manganese-containing materials are of particular concern given the potential health hazard from inhalation of manganese-containing dust.

ii. Alternative Compliance Program. Section 8.0(2)(g) of the Bulk Material Regulations requires applicants to describe alternate methods of compliance. In this case, instead of installing air monitors, NASCO stated that it would implement best management practices (BMPs) as described in its Fugitive Dust Plan. However, as explained above, when



asked to provide evidence of the effectiveness of its current Fugitive Dust Plan, the only documentation NASCO provided was copies of sweeping logs and “daily logs.”

In fact, nothing submitted by NASCO indicated any program for evaluation of its emissions. The regulations require both perimeter air monitors and quarterly opacity and visibility observations. (*See* Section 3.0(f)(ii) of the Bulk Material Regulations.) While routine visible monitoring is important to ensure that dust controls are working on a localized level, they do not take the place of permanent fence line monitors which operate continuously, regardless of weather conditions or the hour of the day or night.

As expressed in CDPH’s Official Response to Public Comments on the Proposed Bulk Material Regulations, on March 13, 2014:

The requirement for fugitive dust monitoring is a critical component of the regulations to ensure that the facility’s dust control measures are working. City inspectors cannot observe facility operations on a daily basis. And facility workers who are occupied in doing their jobs may not always realize when there is a dust problem. Therefore, the PM monitors are important for alerting facility operators when there might be an issue with their dust control systems. They are also important to ensure compliance with the fugitive dust prohibition, as well as to give neighbors a level of comfort in knowing that the air is being monitored. [p. 23.]

The Bulk Material Regulations require monitors to confirm compliance with the regulations. As stated in Section 3.0(4) of the regulations, installation of the specified monitors is required “[u]nless, pursuant to the Variance procedure set forth in 8.0 below, the Facility Owner or Operator establishes that the Facility’s operations do not result in off-site fugitive dust emissions.” For example, if a facility establishes that the material it handles is uniquely dust resistant when handled properly, or that the dust emissions are effectively contained, captured, or controlled, then a variance might be appropriate. In this case, the information submitted in support of the variance application did not include such evidence.

With regard to NASCO’s argument that fugitive dust monitors are not practical given the background levels of fugitive dust from a neighboring facility, CDPH notes that the Bulk Material Regulations require at least four monitors in order to detect fugitive dust in the ambient air. (*See* Bulk Material Regulations, Section 3.0(4)(a)). The rules further require a one-year monitoring period to collect data in order to determine the best placement of upwind and downwind monitors in subsequent years. (*Id.* at Section 3.0(4)(b)). They also specify that

ambient monitoring practices must comply with US EPA protocols and guidance. (*Id.* at Section 3.0(4)(c)).

C. CDPH Determination:

Upon review, CDPH finds that NASCO has not demonstrated that its dust control methods are effective to prevent fugitive dust from leaving the site. Therefore, this variance request is denied.

Regarding the materials handled by NASCO, CDPH disagrees with NASCO's assertion that pig iron, also called blast furnace iron ("BFI"), is not a bulk solid material under the City's regulations. While ingots of pig iron may be heavier than other materials, CDPH disagrees that this material does not produce dust. Indeed, it is commonly understood that pig iron has the potential to produce dust, which is why it is routinely watered during transport, handling, and storage. One of the concerns with pig iron is its tendency to corrode. As NASCO itself noted: "During storage and shipping, oxides of iron (rust) form at its surface and these materials may slough or scale off the BFI during handling." (June 11, 2014 NASCO Variance Petition, Exhibit A.) NASCO's argument that such particles cannot travel very far in winds up to ten miles per hour is not persuasive, given that the particles do become airborne and winds in Chicago can exceed ten miles per hour.

With regard to ferroalloys, including ferro silicon and silicon manganese, NASCO noted that these materials are moisture sensitive and, therefore, cannot be watered as a means of dust control. NASCO stated that these materials are stored indoors. However, they are routinely unloaded from barges outdoors and stored in piles next to the river before being loaded onto trucks and transported to the storage buildings. As observed during the recent City inspection, dust is released from the handling of these materials in spite of the indoor storage. (*See* Exhibit A.)

Thus, for the reasons set forth above, with respect to its request not to be required to install continuous FEM PM<sub>10</sub> dust monitors, CDPH finds that NASCO has failed to meet the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations for issuance of a variance, and the variance request is therefore denied. Accordingly, NASCO must submit a dust monitoring plan to CDPH, and install dust monitors in accordance with the requirements of Section 3.0(4) of the Bulk Material Regulations, within ninety (90) days from

the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the Bulk Material Regulations.

## **2. Wind Monitoring.**

A. Detailed Wind Monitoring and High Wind Events Variance Request: NASCO also requested a variance from Section 3.0(5) of the Bulk Material Regulations, which requires the installation, operation, and maintenance of a weather station or other permanent device to monitor and log wind speed and wind direction at the Facility. Specifically, NASCO indicated that wind devices are useful only for facilities with large piles of bulk solid materials and installed PM<sub>10</sub> monitors—facts that do not apply to NASCO. (June 11, 2014 NASCO Variance Petition, p. 4.) The company also noted that it “has on-line access to wind speed and direction information from Midway Airport and the Chicago Water Intake Crib.” *Id.*

B. Analysis of Variance Request:

i. Minimization of Adverse Impacts. Section 8.0(2)(d) of the Bulk Material Regulations requires a demonstration that issuance of a variance will not create a public nuisance or adversely impact the surrounding area, environment, or property uses. NASCO did not provide such a demonstration. In fact, it did not provide any details to explain how it monitors, plans, prepares, or adjusts its operations for different levels of wind. Neither the variance request nor the fugitive dust plan addresses high wind events.

By asserting that its outdoor piles are temporarily staged for less than 24 hours after unloading, NASCO essentially argues that it is exempt from the sections of the Bulk Material Regulations pertaining to outdoor bulk solid material storage. This includes the requirement to suspend activities during high wind events, as well as requirements pertaining to setbacks from the river, height limits, and dust suppression. However, NASCO did not provide any evidence to support its claim that piles are stored for less than 24 hours, and City inspectors have observed multiple outdoor piles on site at several inspections.

In addition, as NRDC and SETF correctly pointed out:

“Even though the applicant asserts no individual load of material is stored outside for more than 24-hours, the piles themselves are constantly being replenished. The outdoor piles are a permanent feature of facility operations, even if any individual load is moved into an indoor enclosure within a defined period of time. Having the

ability to monitor wind conditions that could contribute to a greater risk of release of dust is essential to trigger the proactive measures in any credible fugitive dust plan.” [September 2, 2014 NRDC and SETF comments, p. 7.]

ii. Alternative Compliance Program. As noted above, NASCO mentioned that it has access to on-line wind data from Midway Airport and the Chicago Water Intake Crib. However, NASCO did not state that it ever actually uses this data. NASCO’s materials included no records of daily weather conditions, including wind speed and direction, as required by Section 3.0(17) of the Bulk Material Regulations, and no response plan for reacting to high wind events. In any event, the two cited sources are too far away from the facility to provide an adequate substitute for on-site wind information. Thus, NASCO has not provided an alternative compliance program to justify a variance from the wind monitoring requirement.

Moreover, in this determination, CDPH has denied NASCO’s request not to install PM<sub>10</sub> monitors. Verifiable and permanent documentation of wind direction and speed is needed to inform the placement of these monitors. With detailed wind information, the facility will be able to compare data from upwind and downwind monitors and, thus, will know when and if dust has blown onto its site from off-site locations—a concern it expressed in its variance request.

C. CDPH Determination:

For the reasons set forth above, with respect to NASCO’s request not to install a wind monitoring device, CDPH finds that NASCO has not demonstrated that issuance of a variance will not result in adverse impacts and, thus, has not met the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations. Therefore, the variance request is denied. Accordingly, NASCO must install a wind monitoring device that meets the requirements of Section 3.0(5) of the regulations, within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the regulations.

**3. Transfer Points:**

A. Detailed Transfer Points Variance Request: NASCO requested a variance from Section 3.0(7) of the Bulk Material Regulations which requires all material transfer points to meet one of four requirements. They must: a) be totally enclosed; b) be operated with a water

spray system; c) be vented to air pollution control equipment; or d) transfer only “moist material” in a manner that minimizes the exposed drop. Under Section 2.0(15) of the regulations, *moist material* is defined as “material with a moisture content of 3% by weight as determined by ASTM analysis, unless another standard is established by an applicable State Permit, Law, Rule or Regulation.”

In its request, NASCO stated that:

“At least one customer requests fluorspar be shipped with a moisture content of 2.5 percent by weight. Fluorspar may be dried to 2.5 percent moisture prior to loading into railcars. The drying operation includes a dust collection system designed and operated to contain fines and combine them with the shipped aggregate.” [June 11, 2014 NASCO Variance Petition, p. 4.]

In the supplemental materials, NASCO clarified that this variance request applies to “only the limitation on transfer of moist material (>3 percent) when some clients specify a lower moisture (i.e. 2.5 percent).” (February 24, 2015 NASCO supplemental information, p. 4.) NASCO further stated that the other options for controlling dust at transfer points, as set forth in the regulations, are not possible due to limitations of the terminal operations. Specifically,

“NASCO cannot enclose the ship or barge. Neither commodity should get wet, so water spray is not an option. The material must be segregated inside the warehouse and this [is] accomplished [through] transport by pay loaders or dump trucks which cannot be fitted with air pollution control equipment. However, each storage and transfer activity uses all practicable control measures.” [*Id.* at 4-5.]

#### B. Analysis of Variance Request:

Minimization of Adverse Impacts and Alternative Compliance Program. Section 8.0(2)(d) of the Bulk Material Regulations requires a demonstration that issuance of a variance will not create a public nuisance or adversely impact the surrounding area, environment, or property uses. As mentioned above, NASCO stated that it employs best management practices to ensure compliance with the fugitive dust limitations set forth in the regulations. Specifically, NASCO listed the following measures:

- “Total enclosure of bulk solid material stored in a warehouse except when unloading or loading;
- Transfers conducted in a manner to minimize the exposed drop;
- Railcar loading conveyor enclosed;

- Immediate cleanup of spill residues;
- No storage of BSM outdoors unless under immediate transfer or load out;
- No loading or unloading if winds create visible emissions at property line; and
- Covered trucks and enclosed hopper cars.” [Id.]

While the above practices can be useful to minimize dust emissions, NASCO did not provide evidence of the effectiveness of the measures. Indeed, as mentioned above, a CDPH inspector observed a lack of dust control during truck loading operations. (See Exhibit A.) Importantly, manganese-containing materials are of special concern given that manganese is a neurotoxin when inhaled at elevated levels.

CDPH notes that limited variances relating to transfer operations are possible when facilities employ other effective dust control measures (such as indoor loading and the use of misting or watering systems, for example) *and* have PM<sub>10</sub> monitors in place to verify the measures are effective. In this case, those circumstances do not apply. Therefore, a variance is not warranted.

C. CDPH Determination:

For the reasons set forth above, with respect to NASCO’s request for a variance from the requirement to maintain material transfer points in compliance with one of the specified measures set forth in Section 3.0(7) of the Bulk Material Regulations, CDPH finds that NASCO has not demonstrated that issuance of a variance will not result in adverse impacts and, thus, has not met the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations. Therefore, the variance request is denied. Accordingly, NASCO must maintain transfer points in compliance with one of the specified measures set forth in Section 3.0(7), within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the regulations.

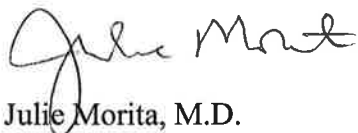
## CONCLUSION

CDPH’s determinations regarding NASCO’s variance requests will be effective as of the date of this letter, and will be posted, along with appendices and supporting materials, on CDPH’s website at [www.cityofchicago.org/environmentalrules](http://www.cityofchicago.org/environmentalrules). Please be advised that if

NASCO fails to comply with the Bulk Material Regulations within the timeframes provided above, NASCO will be subject to enforcement action including daily fines in the amount of \$1,000 to \$5,000 per violation as provided by Section 11-4-810(a)(7) of the Chicago Municipal Code. Furthermore, CDPH may issue a summary abatement order pursuant to Section 11-4-025(c) of the Chicago Municipal Code, requiring NASCO to correct any violations within a timeframe prescribed by the Commissioner.

Please contact Assistant Commissioner Dave Graham at (312) 745-4034 if you have any questions regarding the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Morita". The signature is fluid and cursive, with the first name "Julie" written in a larger, more prominent script than the last name "Morita".

Julie Morita, M.D.  
Commissioner

cc: Mort Ames, DOL

Attachments

Exhibit A - CDPH inspection report, October 30, 2017

# **EXHIBIT A**





CITY OF CHICAGO
DEPARTMENT OF PUBLIC HEALTH
PERMITTING AND ENFORCEMENT

NARRATIVE EVALUATION

INSPECTION DATE: 10/30/2017
SITE NAME: North America Stevedoring Co.
SITE ADDRESS: 9355 S KREITER AVE, CHICAGO, IL 60617
SITE CODE: North America Stevedoring Co.
PERMIT #: ENVAIR138278

TIME: 10:55 am
EMPLOYEE: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 1170955

SUMMARY

I carried out joint inspection of North American Stevedoring, with USEPA Region 5. Molly Smith (Environmental Scientist USEPA Region 5). Also, Bob Szuszkiewicz (CDPH environmental engineer) was also with me for this inspection. Today was cloudy, temperature: high 49 degree F, low 31 degree F, wind: West at 21 mph according to The Weather Channel. Upon arrival we met Messrs. Rudy Becerra (The Facility Safety and Compliance Manager) and Ryan Wosniak (The facility Account Manager) they both took us around the facility for today's inspection, after a brief meeting. Summary of the facility PROCESS DESCRIPTION: Load and unload vessels, barge, rail and trucks for stones, fluorspar (helps to make things melt at lower temperature), salt, steel, pig iron, gypsum, ferros manganese, aluminum, and lumber. Including screening of pig iron. According to Rudy Becerra, the following information was obtained:

- Stevedoring receives manganese in vessels 3 times a year, each vessel could load up to 35,000 tons of manganese;
Manganese is loaded out of the facility in super sacks and trucks;
The facility load out 8 to 10 trucks per day (Monday to Friday), and each truck can take 20 to 23 tons of manganese;
The loading of manganese into trucks is done outside except when it is raining, when it rains it will be done inside the building at the manganese storage area,
There is no control device for the manganese dust from loading operations, either when loading is done outside or inside of the building (see photo #s 1, 2, 3, 4, 5, 6, & 7).
Today inspection revealed the following:
There was heavy manganese dust from manganese loading operations into trucks (see photo #s 1, 2, 3, 4, 5, 6, & 7);
According to loading certificate provided by Rudy Becerra, low carbone ferromanganese was being loaded into the truck during this inspection;
The access roads were very dry and accumulated with particulate dust (see photo #s 8 & 9). See the attachments

REPORT COMPLETED? [X] YES [ ] NO
INVESTIGATION COMPLETED? [X] YES [ ] NO
NOV ISSUED? [ ] YES [X] NO
ATTACHMENTS? [X] YES [ ] NO

I, EMMANUEL ADESANYA, an employee of the City of Chicago, Department of Public Health, declare that I have conducted an inspection of the above mentioned property on the date indicated. I further declare that the observations set forth on the report are true and accurate.

82

STAR #

SIGNATURE
Page 1 of 6

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955

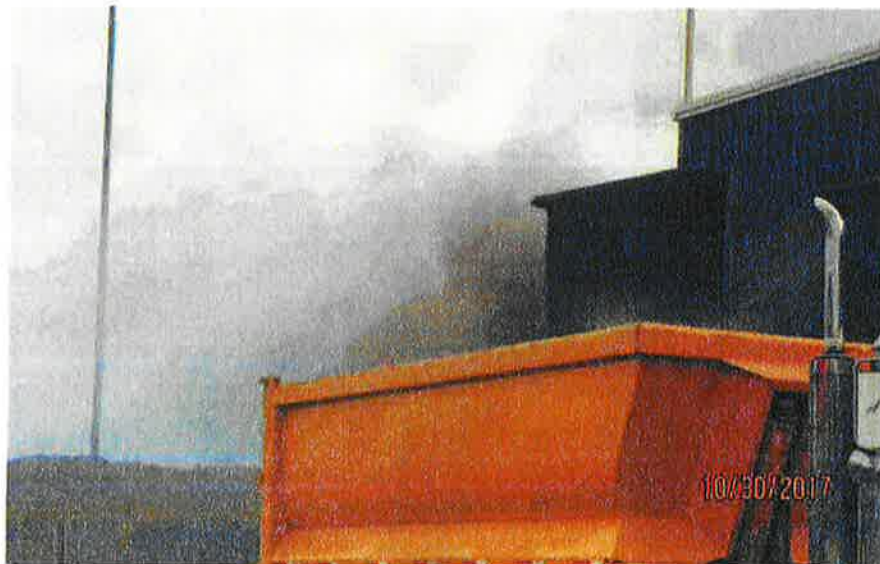


COMMENTS:

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 1 Direction: NE Comments: Plume of manganese dust from loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 2 Direction: NW Comments: Plume of manganese dust from manganese loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 3 Direction: NW Comments: Plume of manganese dust from manganese loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 4 Direction: NE Comments: Plume of manganese dust from manganese loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 5 Direction: NW Comments: Plume of manganese dust from manganese loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955

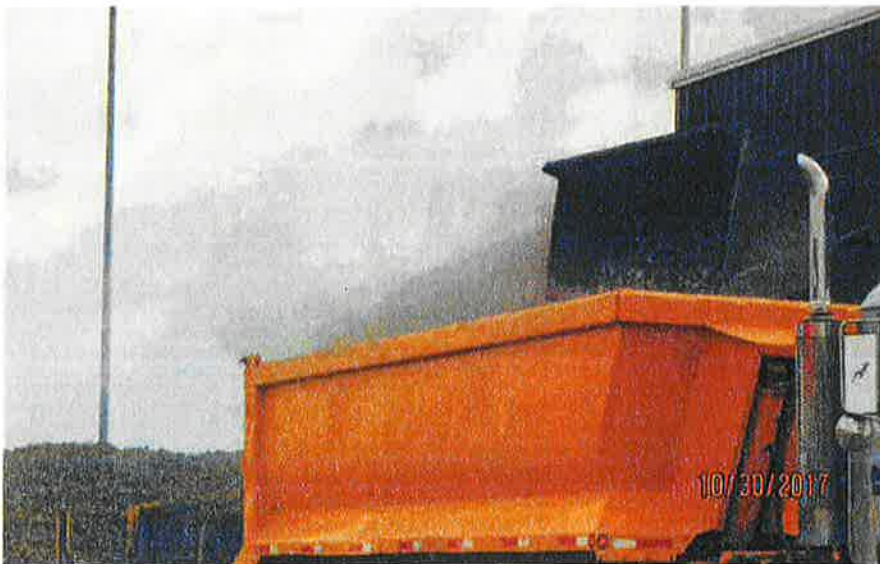


COMMENTS: Photo# 6 Direction: NE Comments: Plume of manganese dust from manganese loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 7 Direction: NE Comments: Plume of manganese dust from manganese loading operations.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 8 Direction: NW Comments: Very dry roads and accumulation of dust/particulate.

---

DATE: 10/30/2017  
SITE: 9355 S KREITER AVE  
SITE CODE: North America Stevedoring Co.  
PERMIT #: ENVAIR138278

TIME: 10:55 am  
INSPECTOR: EMMANUEL ADESANYA  
COUNTY: COOK / CHICAGO  
INSPECTION #: 1170955



COMMENTS: Photo# 9 Direction: NW Comments: Plume of manganese dust from manganese loading operations.

---