STATE OF RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
BUREAU OF ENVIRONMENTAL PROTECTION
OFFICE OF COMPLIANCE AND INSPECTION
235 Promenade Street, Suite 220
Providence, RI 02908-5767

August 9, 2019

CERTIFIED MAIL

SMM New England Corporation
c/o Corporation Service Company, Registered Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

RE: NOTICE OF INTENT TO ENFORCE
File Name: SMM New England Corporation
15-17 Green Earth Avenue, Johnston, Rhode Island
File No.: OCI-AIR-19-64

Dear Registered Agent,

Enclosed please find a Notice of Intent to Enforce ("NIE") that is being issued as a follow up to discussions the Department of Environmental Management ("DEM") has had with representatives of SMM New England Corporation ("SMMNE") regarding recent inspections of the metal shredding facility located at 15-17 Green Earth Avenue in Johnston, Rhode Island (the "Facility").

During inspections conducted on 19 June 2019, 20 June 2019, 25 June 2019, 5 July 2019, 11 July 2019 and 17 July 2019, DEM observed evidence of violations of Parts 1, 5 and 7 of the Rhode Island Air Pollution Control Regulations titled Visible Emissions (250-RICR-120-05-01), Fugitive Dust (250-RICR-120-05-5) and Emissions Detrimental to Person or Property (250-RICR-120-05-7).

No response to the NIE is required, however, consistent with our discussions, DEM is willing to review information provided by SMMNE of its investigation into the potential source(s) and cause(s) of the violations, the actions taken to date to address the violations and any actions that will be taken to address the violations.

DEM is also willing to review any facts or evidence that would allow DEM to modify its conclusion that SMMNE is in violation of the regulations noted above.

Sincerely,

David E. Chopy, Administrator
DEM Office of Compliance and Inspection

Telephone 401.222.1360 | Facsimile 401.222.3811 | www.dem.ri.gov | Rhode Island Relay 711
cc: Janet Coit, DEM
    Terry Gray, DEM
    Mary Kay, DEM
    Michael Healey, DEM
    Karen Peltier, DEM
    Laurie Grandchamp, DEM
    Christopher John, DEM
    Tricia K. Jedele, RI Attorney General’s Office
    Alison Hoffman, RI Attorney General’s Office
    Thomas Olivier, EPA Region 1, Legal Counsel
    Steve Rapp, EPA Region 1
    Christine Sansevero, EPA Region 1
    Thomas McCusker, EPA Region 1
    Scott Miller, SMMNE General Counsel
    Stephen Richmond, Esq., Beveridge & Diamond, for SMMNE
    Jennifer Cervenka, Esq., Cervenka Green Ducharme Antonelli, LLC, for SMMNE
    Earl Phillips, Esq., Robinson Cole, for SMMNE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF COMPLIANCE & INSPECTION

IN RE: SMM New England Corporation

FILE NO.: OCI-AIR-19-64

NOTICE OF INTENT TO ENFORCE

A. Introduction

You are hereby notified that the Director of the Department of Environmental Management (the “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under DEM’s jurisdiction.

B. Facts

(1) The property is located at 15-17 Green Earth Avenue in the Town of Johnston, Rhode Island and identified by the Johnston Tax Assessor as Plat 31, Lot 72 (the “Property”). The Property includes a facility engaged in the crushing and shredding of automobiles and other metals (the “Facility”).

(2) The Facility is a stationary source of air pollutants subject to Rhode Island’s Air Pollution Control Regulations.

(3) Respondent owns the Property and operates the Facility.

(4) Ballard Truck Center (“Ballard”) operates a facility located immediately to the north of the Facility, at 280 Scituate Avenue in the Town of Johnston, Rhode Island (the “Adjacent Property”).

(5) On 19 June 2019, at 2:35 pm, DEM received a complaint from Ballard stating that employees were “getting choked out from the smoke” present at Ballard and believed to originate from the Facility.

(6) On 19 June 2019, DEM inspected the Facility from the Adjacent Property in response to the complaint. The inspection revealed the following:

(a) From approximately 3:00 pm to 4:30 pm (the time of the inspection), white smoke was emitted from the shredder enclosure located at the Facility. During this time, the shredder continuously operated, and a constant plume of smoke was released from the shredder enclosure;

(b) The truck bays at Ballard were open and a visible haze, observed by DEM’s inspector in the garage bays, was migrating towards Scituate Avenue. Opacity readings were taken of the plume exiting the shredder enclosure at the time of the 19 June 2019 inspection from 3:10 pm to 3:16 pm at the Adjacent Property by DEM’s inspector, in accordance with United States Environmental Protection...
Agency Test Method 9, Visible Determination of the Opacity from Stationary Sources ("Method 9") and ranged between 23 percent and 40 percent opacity;

c) DEM’s inspector reported that she experienced eye and respiratory irritation from the air-borne particulate matter from the Facility and that when she arrived home, she washed her hands, but still had a distinct metallic odor, which required her to shower and change her clothes;

d) DEM’s inspector observed one of Ballard’s employees covering her mouth and nose in the parking lot while leaving the building; and

e) DEM reviewed ambient air monitoring data for a monitoring station that DEM installed on the Adjacent Property (the "Monitoring Station"). The data revealed that particulate matter 2.5 ("PM 2.5") (which is particulate matter smaller than 2.5 micrometers) ranged from 18 to 89 micrograms per cubic meter ("ug/m³") during the time of the inspection.

(7) On 20 June 2019, at 2:45 pm, DEM received a complaint from Ballard stating that "getting choked out from smoke from SIMS right now. There are tumbleweeds of fluff rolling through garage bays."

(8) On 20 June 2019, DEM inspected the Facility from the Adjacent Property in response to the complaint. The inspection revealed the following:

(a) From approximately 3:30 pm to 4:00 pm (the time of the inspection), white smoke was observed being emitted from the shredder enclosure located at the Facility. During this time, the shredder continuously operated and a constant plume of smoke was observed by DEM’s inspector that was emitted from the shredder enclosure;

(b) Opacity readings were taken of the plume at the exit of the shredder enclosure at the time of the 20 June 2019 inspection from 3:37 pm to 3:42 pm at the Adjacent Property in accordance with Method 9 and ranged between 48 percent and 71 percent opacity;

(c) DEM’s inspector reported that she experienced eye and respiratory irritation from the airborne particulate matter from the Facility;

(d) DEM’s inspector was provided a sample of auto-fluff like material from Ballard and was told that the fluff routinely migrates onto the Adjacent Property from the Facility;

(e) DEM’s inspector was approached by two Ballard employees who told her how bad the air quality was from the Facility and that it made working difficult; and

(f) DEM reviewed ambient air monitoring data for the Monitoring Station. The data revealed that PM 2.5 ranged from 13 to 47 ug/m³ during the time of the inspection.
(9) On 25 June 2019, at 12:33 pm, DEM received a complaint from Ballard stating that “getting killed right now with smoke and vapors from SIMS, crusher is running.”

(10) On 25 June 2019, DEM inspected the Facility from the Adjacent Property. The inspection revealed the following:

(a) From approximately 2:00 pm to 3:00 pm (the time of the inspection) the shredder was operating and releasing large amounts of dust as well as pieces of debris into the air;

(b) DEM’s inspector had to cover his face to avoid breathing in the dust and observed Ballard employees covering their faces and closing their garage doors as the amount of dust in the air got worse;

(c) DEM’s inspector spoke with an employee from Ballard who said this is a common occurrence and that the dust is making him and his employees sick;

(d) An employee from Ballard provided DEM’s inspector 15 letters from Ballard employees describing the adverse health effects that they have been experiencing and asked him to provide the letters to DEM’s Office of Compliance & Inspection; and

(e) DEM reviewed ambient air monitoring data for the Monitoring Station. The data revealed that PM 2.5 ranged from 26 to 157 ug/m³ during the time of the inspection and complaints received by the Adjacent Property.

(11) On 5 July 2019, at 2:30 pm, DEM received a complaint from Ballard stating that “odor is choking him out as well as other employees” present at Ballard and believed to originate from the Facility.

(12) On 5 July 2019, DEM inspected the Facility from the Adjacent Property in response to the complaint. The inspection revealed the following:

(a) From approximately 3:10 pm to 5:00 pm (the time of the inspection) the shredder was operating, and a continuous white smoky haze was observed coming from the shredder enclosure;

(b) DEM’s inspector observed a constant plume of smoke being emitted from the shredder that ranged from 30% to 50% or greater opacity for more than 3 minutes in an hour time frame; and

(c) DEM reviewed ambient air monitoring data for the Monitoring Station. The data revealed that PM 2.5 ranged from 21 to 100 ug/m³ during the time of the inspection and complaints received by the Adjacent Property.

(13) On 11 July 2019, at 3:15 pm, DEM received a complaint from Ballard stating that “smell is choking him and employees out; blue haze” present at Ballard and believed to originate from the Facility.
(14) On 11 July 2019, DEM inspected the Facility from the Adjacent Property in response to the complaint. The inspection revealed the following:

(a) The inspection occurred from approximately 4:47 pm to 5:32 pm. The shredder was operating at the beginning of the inspection and white smoke was observed being emitted from the shredder enclosure until approximately 5:00 pm, when the shredder ceased operating;

(b) DEM’s inspector detected a distinct metallic odor and observed visible particulate emissions of auto-fluff like material/particulate matter migrating from the Facility onto the Adjacent Property while the shredder was operating. The predominant wind direction was from the south/southeast;

(c) DEM’s inspector experienced eye irritation during the inspection; and

(d) DEM reviewed ambient air monitoring data for the Monitoring Station. The data revealed that PM 2.5 ranged from 40 to 77 ug/m³ during the time of the inspection and complaints received by the Adjacent Property.

(15) During the 11 July 2019 inspection, DEM’s inspector collected wipe samples from the windshield of the State vehicle and from the hood of a Ballard employee’s truck. DEM’s inspector also collected a sample of autofluff material that had accumulated in Ballard’s parking lot located along Scituate Avenue. These samples were submitted for laboratory analysis for metals under a chain of custody.

(16) On 16 July 2019, at 4:06 pm, DEM received a complaint from Ballard stating that “Ballard employees are getting choked out with fumes today at 4:06 pm” and believed to originate from the Facility. A subsequent review of the air monitoring data for the Monitoring Station during the time frame between 4:00 pm and 5:00 pm revealed that PM 2.5 ranged from 14 to 63 ug/m³.

(17) On 17 July 2019, DEM inspected the Facility from the Adjacent Property. The inspection revealed the following:

(a) From 4:05 pm to 4:45 pm (the time of the inspection) the shredder continuously operated. The predominant wind direction was from the south/southeast;

(b) DEM’s inspector experienced eye irritation during the time of the inspection; and

(c) A subsequent review of the air monitoring data for the Monitoring Station revealed that PM 2.5 ranged from 27 to 62 ug/m³ during the time of the inspection.

(18) On 19 July 2019, at 3:08 pm, DEM received a complaint from Ballard stating “getting "smoked/choked out" at 3:08 pm.” and believed to originate from the Facility. A subsequent review of the air monitoring data for the Monitoring Station during the time frame between 3:00 pm and 4:00 pm revealed that PM 2.5 ranged from 6 to 38 ug/m³.
(19) On 23 July 2019, DEM received the results of the samples collected on 11 July 2019. The results revealed that identical metals were detected in the wipe sample taken from the hood of Ballard employee’s truck and the autofluff material, specifically, chromium, copper, lead and nickel. Additionally, antimony was present in the autofluff material.

C. Violations

Based on the foregoing facts, the Director has determined that violations of the following regulations occurred at the Facility:

(1) Rhode Island Code of Regulations titled Visible Emissions (250-RICR-120-05-01) Part 1.6 – prohibiting emissions to the atmosphere from any source and any air contaminant for a period or periods aggregating more than 3 minutes in any one hour which is greater than or equal to 20 percent opacity.

(2) Rhode Island Code of Regulations titled Fugitive Dust (250-RICR-120-05-05) Part 5.6 – prohibiting airborne particulate matter/fugitive dust from traveling beyond the property line without taking adequate precautions to prevent particulate matter from becoming airborne.

(3) Rhode Island Code of Regulations titled Emission of Air Contaminants Detrimental to Person or Property (250-RICR-120-05-7) Part 7.6 – prohibiting the emission of air contaminants which may be injurious to human, plant or animal life, or cause property damage or which unreasonably interferes with the enjoyment of life and property.

D. Response to the NIE

No response to the NIE is required, however, consistent with our discussions, DEM is willing to review information provided by SMMNE of its investigation into the potential source(s) and cause(s) of the violations, the actions taken to date to address the violations and any actions that will be taken to address the violations.

DEM is also willing to review any facts or evidence that would allow DEM to modify its conclusion that SMMNE is in violation of the regulations noted above.

The NIE constitutes DEM’s initial response to the violations alleged in the NIE and does not limit or otherwise preclude DEM from taking further enforcement action regarding this or other violations that may be determined.

If SMMNE has any legal questions, please have SMMNE’s attorney contact Mary Kay of DEM’s Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Karen Peltier of DEM’s Office of Compliance and Inspection at (401) 222-1360, extension 7136 or at karen.peltier@dem.ri.gov.
FOR THE DIRECTOR

By: [Signature]
David E. Chopy, Administrator
DEM Office of Compliance and Inspection

Dated: August 9, 2019