



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

NOV 08 2018

REPLY TO THE ATTENTION OF:

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

Alex Gross, Owner  
Whiting Metals, LLC  
2230 Indianapolis Boulevard  
Hammond, Indiana 46394

Re: Notice of Violation  
Whiting Metals, LLC  
Hammond, Indiana

Dear Mr. Gross:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Whiting Metals, LLC (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are violating the Indiana State Implementation Plan at your Hammond, Indiana 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.

The EPA contact in this matter is Sarah Clark. You may call her at (312) 886-9733 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,

A handwritten signature in blue ink, appearing to read "E. Nam" followed by a flourish.

Edward Nam  
Director  
Air and Radiation Division

Enclosure: SBREFA fact sheet

cc: Phil Perry, Chief, Air Compliance Branch  
Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Whiting Metals, LLC  
Hammond, Indiana

Proceedings Pursuant to  
Section 113(a)(1) of the  
Clean Air Act, 42 U.S.C.  
§ 7413(a)(1)

)  
)  
) **NOTICE OF VIOLATION**

)  
) **EPA-5-19-IN-03**

**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 Whiting Metals, LLC (Whiting) is violating the Indiana State Implementation Plan (SIP), as follows:

**Statutory and Regulatory Background**

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 lead on November 12, 2008. 73 Fed. Reg. 67052 (2008). The revised national primary and secondary ambient air quality standards for lead and its compounds are 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), arithmetic mean concentration over a 3-month period. See 40 C.F.R. § 50.16. EPA revised the primary NAAQS for lead to provide increased protection for children and other at-risk populations against an array of adverse health effects, most notably including neurological effects in children. EPA revised the secondary standard to be identical to the revised primary standard.
3. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA a plan that provides for the implementation, maintenance, and enforcement of primary and secondary NAAQS in the state. Upon approval by EPA, the plan becomes a part of the applicable SIP for the state.

**Indiana State Implementation Plan**

4. On November 27, 1981, EPA approved 326 Indiana Administrative Code (IAC) 1-3-1 as part of the federally enforceable SIP for Indiana. 46 Fed. Reg. 57895.

5. 326 IAC 1-3-1 states: (a) “The purpose of this rule (326 IAC 1-3) is to establish primary and secondary ambient air quality standards for the state of Indiana to the extent necessary to protect public health and welfare, and which are consistent with the intent and provisions of the Indiana law; (b) Further, in accordance with provisions of the Clean Air Act, and 40 C.F.R. Part 50, this is a rule promulgating both primary and secondary air quality standards that are applicable throughout the entire state.”
6. On July 31, 2018, EPA approved 326 IAC 1-3-4 as part of the federally enforceable SIP for Indiana. 83 Fed. Reg. 36751.
7. 326 IAC 1-3-4(b)(6) states that the ambient air quality standards for lead (Pb) are as follows: “For primary and secondary standards, the following value represents the maximum permissible ambient air quality level: fifteen-hundredths micrograms per cubic meter ( $0.15 \mu\text{g}/\text{m}^3$ ), arithmetic mean concentration over a three (3) month period.”
8. On July 5, 1995, EPA approved 326 IAC 1-2-28.5 as part of the federally enforceable SIP for Indiana. 60 Fed. Reg. 34856.
9. 326 IAC 1-2-28.5 defines “Federally enforceable” as all limitations and conditions which are enforceable by the U.S. EPA administrator, including those requirements developed for: (3) Requirements within any applicable state implementation plan.

#### **Factual Background**

10. Whiting owns and operates a nonferrous metals recycling facility at 2230 Indianapolis Boulevard, Hammond, Indiana (the Facility).
11. On December 22, 2017, the Indiana Department of Environmental Management (IDEM) Air Program renewed a 10-year Minor Source Operating Permit, #M089-38168-00262, submitted by Whiting for the Facility (2017 MSOP).
12. Operations at the Facility primarily include a “Lead Solder Alloying Process,” described in Section D.1 of the 2017 MSOP, which consists of the following process units: Reverberatory Furnace F3, Sweat Kettles K6, K10, K11, K15, and Cast Iron Melting Pots K12, K13, K14.
13. Emissions for the Lead Solder Alloying Process are vented to an American Bag Filter Dust Collector System (Dust Collector) for particulate control.
14. The 2017 MSOP lists the annual uncontrolled potential to emit Pb from the Lead Solder Alloying Process as 3.78 tons per year.
15. Emissions from Whiting’s Facility, including, but not limited to, the Lead Solder Alloying Process, are subject to the Pb NAAQS in the Indiana SIP at 326 IAC 1-3-4(b)(6).
16. On August 3, 2018, IDEM began monitoring 24-hour Pb total suspended particulate matter (Pb-TSP), in accordance with 40 C.F.R. Part 50, Appendix R, using a reference

method based on 40 C.F.R. Part 50, Appendix G, and designated in accordance with 40 C.F.R. Part 53, at an ambient monitoring station located at the Hammond Sanitary District's Goose Island Pumping Station, which is situated across the George Lake Trail to the North/Northeast of the Facility (IDEM Monitor).

17. On September 14, 2018, EPA and IDEM jointly inspected the Whiting Facility. During the inspection, a Whiting representative informed inspectors that the Facility starts operating between 5:00 am and 7:00 am and continues through approximately 3:00 pm Monday through Friday.
18. Based on a three-month arithmetic mean Pb concentration from August through October of 2018, EPA determined that the NAAQS for lead had been exceeded at the IDEM Monitor. The three-month arithmetic mean Pb concentration at the IDEM Monitor was  $0.31 \mu\text{g}/\text{m}^3$ .
19. The highest Pb concentrations occurred during hours with southwesterly winds (as recorded at the nearest meteorological station in Hammond, Indiana). The Whiting Facility is located southwest of the IDEM Monitor.
20. On October 12, 2018, EPA installed and began operating an Xact monitor (Xact) and a meteorological tower, collocated with the IDEM Monitor, to record hourly concentrations of speciated metals, including Pb, and hourly meteorological data.
21. The hourly Xact data shows that the highest Pb concentrations occurred Monday through Friday between approximately 6:00 am and 3:00 pm during hours with southwesterly winds (as recorded at the meteorological tower collocated with the Xact and IDEM Monitors).

#### Violations

22. Whiting caused or allowed the emission of lead into the air so as, either alone or in combination with contaminants from other sources, to cause air pollution in Indiana and to prevent the attainment or maintenance of the revised NAAQS for lead ( $0.15 \mu\text{g}/\text{m}^3$ ), in violation of the Indiana SIP at 326 IAC 1-3-4(b)(6).

Environmental Impact of Violations

23. This violation is associated with excess emissions of lead. Once lead enters the body it distributes through blood and is accumulated in the bones. Depending on the level of exposure, lead can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. Lead exposure also affects the oxygen carrying capacity of the blood. The most common lead effects are neurological effects in children and cardiovascular effects (e.g., high blood pressure and heart disease) in adults. Infants and young children are especially sensitive to lead, which may contribute to behavioral problems, learning deficits and lowered IQ.

11/8/18  
Date

  
Edward Nam  
Director  
Air and Radiation Division

# 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](http://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu)

EPA's OSDBU 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](http://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](http://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](http://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](http://www.epa.gov/agriculture)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

### Construction

[www.cicacenter.org](http://www.cicacenter.org)

### Education

[www.campuserc.org](http://www.campuserc.org)

### Food Processing

[www.fpeac.org](http://www.fpeac.org)

### Healthcare

[www.hercenter.org](http://www.hercenter.org)

### Local Government

[www.lgean.org](http://www.lgean.org)

### Surface Finishing

<http://www.sterc.org>

### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

### Printing

[www.pneac.org](http://www.pneac.org)

### Ports

[www.portcompliance.org](http://www.portcompliance.org)

## Transportation

[www.tercenter.org](http://www.tercenter.org)

## U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

## EPA Hotlines and Clearinghouses

[www.epa.gov/home/epa-hotlines](http://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/cac](http://www.epa.gov/cac) 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](http://www.epa.gov/otaq/imports) or 1-734-214-4100

## National Pesticide Information Center

[www.npic.orst.edu](http://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](http://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](http://www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline) or 1-800-426-4791

## Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc 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](http://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](http://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](http://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](http://www.epa.gov/enforcement/small-businesses-and-enforcement)

#### EPA's Audit Policy

[www.epa.gov/compliance/epas-audit-policy](http://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-5-19-IN-03, by Certified Mail, Return

Receipt Requested, to:

Alex Gross, Owner  
Whiting Metals, LLC  
2230 Indianapolis Boulevard  
Hammond, Indiana, 46394

I also certify that I sent copies of the Notice of Violation by first-class mail to:

Phil Perry, Chief, Air Compliance Branch  
Indiana Department of Environmental Management  
PPERRY@idem.IN.gov

On the 8<sup>th</sup> day of November 2018.

Kathy Jones

Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7017 0530 0000 6289 1986