



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

SEP 28 2007

Ref: 8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Teitscheid, Plant Manager
Superior Colorado Inc.
4900 Clarkson Street
Denver, Colorado 80216

Re: In the Matter of Superior Colorado Inc.
Administrative Order

Dear Mr. Teitscheid:

Enclosed is an Administrative Order ("Order"), that the United States Environmental Protection Agency, Region 8 ("EPA") is issuing under the authority of section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(B). In the Order, EPA finds Superior Colorado Inc. in violation of section 112(r)(1) of the CAA, 42 U.S.C. §§ 7412(r)(1).

EPA has found that Superior Colorado Inc. has not met its "general duty", pursuant to CAA section 112(r)(1), to prevent and minimize accidental releases of anhydrous ammonia. EPA is issuing the enclosed Administrative Order, which specifies the nature of the violations and describes actions necessary for compliance with CAA section 112(r)(1).

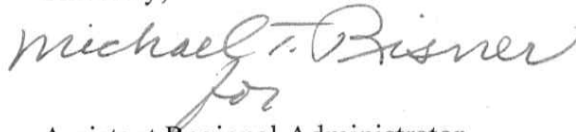
The Order requires Superior Colorado Inc. to comply with the general duty clause requirements of the Clean Air Act by dates specified in the Order.

In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), the Order will not take effect until Superior Colorado Inc. has had the opportunity to confer with EPA concerning the findings set forth in the Order. If Superior Colorado Inc. would like an opportunity to confer with EPA regarding this Order, a request must be made in writing following the procedures set out in the Order. If the conference is not requested, the Order shall become effective fifteen (15) days after Respondent's receipt of the Order. A request for such a conference does not extend the time periods Superior Colorado Inc. has for meeting all deadlines specified in the Order. Superior Colorado Inc. has the right to be represented by counsel at the conference but it is not required.

Please be advised that the issuance of this Order does not preclude the initiation of any action authorized under law for failure to comply with the Order, including the assessment of an administrative penalty and the filing of civil or criminal actions in the U.S. District Court. Failure to comply with the requirements of the Order is a violation of the Order. Please also be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal actions in the U.S. District Court for the violations cited in the Order or for any other violations that Superior Colorado Inc. may have committed prior to or may commit after the issuance of the enclosed Order.

Please review the Order carefully. If you have any questions, please contact the most knowledgeable people on my staff, David Cobb, Environmental Scientist, (for technical issues) who can be reached at (303) 312-6592, and David Rochlin, Senior Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6892.

Sincerely,

A handwritten signature in cursive script that reads "Michael T. Bisner". Below the signature, the word "for" is written in a smaller, simpler script.

Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures: Administrative Order
Notice of SEC Disclosure

cc: David Rochlin, 8ENF-L
David Cobb, 8ENF-AT
Robert Jorgenson, APCD, CDPHE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

2007 SEP 28 PM 2:06

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
)

Superior Colorado Inc.)
)
)

Respondent.)

Proceeding under section 113 of the)
Clean Air Act, 42 U.S.C. §7413)
_____)

ADMINISTRATIVE ORDER

DOCKET NO. : CAA-08-2007-0009

ADMINISTRATIVE ORDER

This Administrative Order (“Order”) is issued to Superior Colorado Inc. (“Respondent”) pursuant to Title I, section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. §7413 (a)(3)(B). Section 113(a)(3)(B) grants to the Administrator of the U.S. Environmental Protection Agency (“EPA”) the authority to make a finding of violation of a requirement or prohibition of Title I, and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition.

STATUTORY AND REGULATORY BACKGROUND

1. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added section 112(r) to the Clean Air Act, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances.

2. Pursuant to the general duty clause (“GDC”) found at section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to: (a) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (b) to design and maintain a safe facility taking such steps as are necessary to prevent releases; and, (c) to minimize the consequences of accidental releases which do occur.

3. Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a *civil administrative penalty* of up to \$32,500 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any *requirement or prohibition* of the Clean Air Act referenced therein, including section 112(r)(1).

4. The regulations at 40 C.F.R. § 68.3 define “stationary source” as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the *same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.*

5. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the Clean Air Act, as amended, in 40 C.F.R. § 68.130, Tables 1, 2, 3 and 4.

FINDING OF FACT

6. Respondent is, and at all times referred to herein was, a “person” as defined by section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).
7. The Facility is a “stationary source” pursuant to section 112(r)(2)(C) of the Clean Air Act and 40 C.F.R. § 68.3.
8. Respondent is the owner and/or operator of a lamb slaughter and processing facility located at 4900 Clarkson Street, Denver, Colorado (the “Facility”).
9. At its Facility, Respondent handles, and/or stores, anhydrous ammonia, a regulated substance pursuant to section 112(r)(2) and (3) of the Clean Air Act, which is listed at 40 C.F.R. § 68.130. The peak storage amount of anhydrous ammonia at this facility is 3,000 pounds.
10. EPA inspectors conducted an inspection of the Facility on May 31, 2007, to determine compliance with section 112(r) of the Clean Air Act.
11. EPA’s inspection of the Facility revealed safety concerns including the failure to post the roof condensers as confined space, lack of eye wash/deluge shower outside the compressor room, failure to replace relief valves within five years of manufacture date, failure to address areas of piping and equipment with ice buildup and visible corrosion, and failure to have a door on the compressor room.

FINDING OF VIOLATIONS

General Duty Clause

12. Pursuant to section 112(r)(1) of the Clean Air Act, Respondent has a general duty, in the same manner and to the same extent as 29 U.S.C § 654, to: (a) identify hazards which may result from accidental releases of a regulated substance or other extremely hazardous substance, using

appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases; and, (c) minimize the consequences of accidental releases which do occur.

13. Based on information available to EPA, including information gathered during the inspection performed by EPA at the Facility and the FINDING OF FACT set forth above, EPA has determined that Respondent failed to satisfy the general duty referred to in Paragraph 12 above, in that, among other things, Respondent has not designed and maintained a safe facility taking such steps as are necessary to prevent releases of a regulated substance and minimize the consequences of accidental releases that do occur. Therefore, Respondent violated the provisions of section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1).

COMPLIANCE ORDER

14. Based upon the foregoing Finding of Fact, Finding of Violations, other information available to EPA, and pursuant to section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. §7413 (a)(3)(B), Respondent is hereby ORDERED as follows:

- a. To comply with the Clean Air Act and its implementing regulations including, but not limited to, those requirements set forth in section 112(r)(1) and those requirements specifically required in this Compliance Order. All activities specified below shall be initiated and completed as soon as possible even though a maximum time period for their completion is specified herein.
- b. Respondent shall, by no later than **January 1, 2008**, complete the following steps to comply with the General Duty Clause of the Clean Air Act:

1. Inspect all pressure relief valves on the ammonia system. Replace any pressure relief valves with unknown age and all pressure relief valves determined to be more than five years old from the date of manufacture. (International Institute of Ammonia Refrigeration (IIAR) Bulletin No.109, Section 4.9.7)
 2. Inspect system piping for corrosion and damage to vapor barrier. Replace/repair areas determined to be not fit for service. **This inspection must be done by a qualified person with appropriate experience in ammonia refrigeration system design, operation, and maintenance, as well as familiarity with current appropriate protocols and standards.** (IIAR Bulletin No.109; *Minimum Safety Criteria for a Safe Ammonia Refrigeration System*; Sections 4.7.4 & 4.7.5)
 3. Install eye wash/deluge shower station outside of the machinery room. (IIAR Bulletin No.109, Section 4.10.10)
 4. Post signs on roof condensers stating "Danger, Permit-Required Confined Space, Do Not Enter" (IIAR 1998; *Process Safety Management Guidelines for Ammonia Refrigeration*; Chapter 6, p. 6-8; and 29 CFR 1910.146)
 5. Install door on the machinery room. Machinery rooms shall have tight-fitting doors which open outward and are provided with panic-type hardware (American National Standard Institute (ANSI)/IIAR 2-1999; *Equipment, Design, and Installation of Ammonia Mechanical Refrigerating Systems*; Section 6.3.1.5)
- c. Submit supporting documentation and a certification letter to this office by January 1, 2008, verifying the completion of the items required by subparagraph 14(b) above. The certification letter shall have the following statement included in the body of the letter:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- d. The submission required by the subparagraph 14(c) above shall be made to:

U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: David Cobb, ENF-AT

PENALTY PROVISIONS

15. Pursuant to section 113 of the Clean Air Act, 42 U.S.C. § 7413, failure to comply with any of the provisions of this Order may subject Respondent to penalties of up to \$27,500 per day for each violation occurring before March 15, 2004. Violations occurring after March 15, 2004, are subject to penalties of up to \$32,500 per day for each violation.

16. Issuance of this Order does not preclude EPA from assessing penalties or taking any other action authorized under the Act. This Order does not affect the obligation of Respondent to comply with all federal, state and local statutes, regulations and permits.

EFFECTIVE DATE

17. Respondent may request a conference with EPA concerning the violations alleged in, and the requirements of, this Order. Such request must be made in writing and must be received by EPA **no later than ten (10) days after Respondent's receipt of this Order**. The written request for a conference may be sent by fax or mail.

18. This Order shall become effective fifteen (15) days after Respondent's receipt of the Order, unless Respondent requests an opportunity to confer with EPA, in which case the Order shall become effective on the third business after the conference unless EPA issues a modification to the Order.

19. Letters sent pursuant to Paragraphs 17 and 18 should be addressed or faxed to:

U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: David Cobb, ENF-AT
Phone: (303) 312-6592
Fax: (303) 312-6409

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**

9/28/07
Date

By: Michael T. Risner
for Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

9.28.2007
Date

By: David Janik
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the ADMINISTRATIVE COMPLIANCE ORDER were hand-carried to the Regional Hearing Clerk, EPA, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was mailed by certified mail to:

James Teitscheid, Plant Manager
Superior Colorado Inc..
4900 Clarkson Street
Denver, Colorado 80216

9/28/2007

Date

Cheryl A. Turcotte

Signature