

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2019 OCT 10 AM 8:55

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
Anheuser-Busch, LLC)
Fort Collins Brewery)
2351 Busch Drive)
Fort Collins, CO 80524)
)
Respondent)
_____)

**ADMINISTRATIVE ORDER
ON CONSENT**

Docket No. **CAA-08-2020-0001**

PRELIMINARY STATEMENT

This Administrative Order On Consent (Order) is entered into voluntarily by the United States Environmental Protection Agency (the EPA) and by Anheuser-Busch, LLC (Respondent) and is issued under the authority vested in the Administrator of the EPA by section 113(a)(3) and (4) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7413(a)(3) and (4).

1. The Director for the EPA Region 8's Environmental Compliance and Assurance Division is delegated the authority to issue this Order under section 113(a) of the Act, 42 U.S.C. § 7413(a).
2. This Order requires Respondent to comply with the requirements of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. part 68. All activities specified and ordered below shall be initiated and completed as soon as possible even though maximum time periods or specific dates for their completion may be detailed herein. With the exception of extensions or deadlines for submittals or performance, the terms of this Order shall not be modified except by a subsequent written agreement between the EPA and Respondent.
3. By entering into this Order, Respondent (1) consents and agrees not to contest the EPA's authority or jurisdiction to issue or enforce this Order, (2) agrees to undertake all actions required by the terms and conditions of this Order, and (3) consents to be bound by the requirements set forth herein.

STATUTORY AND REGULATORY BACKGROUND

4. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of the EPA to, among other things, promulgate regulations to prevent accidental releases of certain regulated substances.
5. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), provides that the owners and operators of stationary sources are required to develop and implement a risk management plan (RMP) that includes a hazard assessment, a prevention program and an emergency response program.
6. 40 C.F.R. part 68 sets forth the requirements of a risk management program that must be established and implemented at a stationary source that has more than a threshold quantity of a regulated substance in a process.
7. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines the term “person” to include in relevant part, an individual, corporation, or partnership.

FINDINGS AND ALLEGED VIOLATIONS

8. Respondent is a Missouri limited liability company and is authorized to do business in the state of Colorado and is therefore a “person” as that term is defined under the section 112(r) of the CAA, 42 U.S.C. § 7412(r).
9. Respondent is the owner and/or operator of the Anheuser-Busch Fort Collins Brewery (the Facility), a stationary source, located at 2351 Busch Drive, Fort Collins, Colorado 80524.
10. The Facility uses, handles, and/or stores more than a threshold quantity of anhydrous ammonia, a regulated substance, as specified at 40 C.F.R. §§ 68.115 and 68.130.

11. Pursuant to CAA section 112(r)(7), 42 U.S.C. § 7412(r)(7), Respondent is required to prepare and implement a risk management program to detect and prevent or minimize accidental releases of such substances.

12. The EPA conducted an inspection of the Facility on May 24th and May 25th, 2017, to assess compliance with section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. part 68.

13. During the inspection, the EPA representative observed alleged violations of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. part 68. The alleged violation identified in the inspection that has not yet been corrected is described in Paragraph 14, below.

14. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent's ammonia refrigeration piping was not labeled in accordance with IIAR Bulletin No. 114—Guidelines for: Identification of Ammonia Refrigeration Piping and System Components. By not labeling ammonia refrigeration piping per IIAR Bulletin No. 114, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).

COMPLIANCE ORDER

15. Based upon the foregoing Findings and Alleged Violation by the EPA, it is hereby ordered and agreed that Respondent shall comply with the requirements of section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. part 68. Specifically, the EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than September 27, 2020, correct the violation alleged in Paragraph 14.

16. Within 15 days of completion of all actions identified in Paragraph 15, Respondent shall provide the EPA with a notification that the actions have been completed.

17. The notification of completion required by Paragraph 16 of this Order shall also contain the following certification signed by an officer of Respondent:

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 upon my inquiry of those individuals immediately responsible for obtaining the information, 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. (Signature and date)

18. All submissions and correspondence shall be mailed or emailed to the following address:

U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Steven A. Ramirez, 8ENF-AT-P
(Email address: ramirez.stevena@epa.gov)

OTHER TERMS AND CONDITIONS

19. Respondent admits the jurisdictional allegations contained in this Order.

20. Respondent neither admits nor denies the findings and alleged violation in the Findings and Alleged Violations section of this Order and reserves its rights to dispute the findings and alleged violation in any future proceeding.

GENERAL PROVISIONS

21. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to \$99,681 per day per violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

22. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

23. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present imminent and substantial endangerment to the public health, welfare, or the environment.

24. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the effective date of this Order until the termination date as set out in Paragraph 30 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

25. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. part 2, subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. part 2, subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

26. Each undersigned representative certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally Respondent and Complainant to this document.

27. Deadlines for submittals or performance may be extended by the EPA, at its sole discretion, without further amendment to this Order. The EPA will provide Respondent written confirmation and documentation of any such extensions of time.

EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

28. Pursuant to section 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violation. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately upon signature by the latter of Respondent or the EPA.

JUDICIAL REVIEW

29. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with requirements set forth in this Order, including any right of judicial review under section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1). Nothing herein shall affect Respondent's right to judicial or administrative review in any future proceeding based on the same findings and alleged violation.

TERMINATION

30. This Order shall terminate on the date of a determination by the EPA that Respondent has achieved compliance with all terms of this Order.

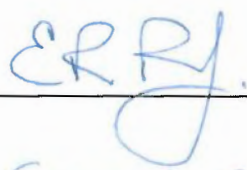
UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
Complainant.

Date: 10/9/19

By: 
Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

Anheuser-Busch, LLC
Respondent.

Date: 10-7-2019

By: 
GENERAL MANAGER
Title

**In the Matter of:
Anheuser-Busch, LLC**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the ADMINISTRATIVE ORDER ON CONSENT were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, and that a true copy of the same was sent via Certified Mail, Postage Pre-Paid, to:

Anheuser Busch, LLC
Fort Collins Brewery
2351 Busch Drive
Fort Collins, CO 80524
Attn: Aaron Mortensen, EHS Manager Senior

10/10/19
Date

Joan Detty
Joan Detty