

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS**

In the Matter of)
)
County Line Ag Services, LLC) **Docket No. CAA-07-2022-0003**
)
Respondent.)

ADMINISTRATIVE ORDER FOR COMPLIANCE ON CONSENT

PRELIMINARY STATEMENT

1. This Administrative Order for Compliance on Consent (“Order”) is entered into voluntarily by the United States Environmental Protection Agency (“EPA”) and by County Line Ag Services, LLC (“Respondent” or “County Line Ag”), pursuant to Section 113(a)(3)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3)(B), as amended.

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. Specifically, EPA orders Respondent to comply with the prevention program steps provided in §§ 68.48 through 68.60. All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion may be specified herein. The terms of this Order shall not be modified except by a subsequent written agreement between the parties.

3. By entering into this Order, Respondent (1) consents to and agrees not to contest 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, (3) consents to personal service by electronic mail and (4) consents to be bound by the requirements set forth herein. Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of this Order under Section 307(b)(1) of the CAA, 42 U.S.C § 7607(b)(1), or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

JURISDICTION

4. The following Order is entered into and issued pursuant to the authority of Section 113(a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(B), as amended.

PARTIES

5. Complainant, by delegation from the Administrator of the EPA and the Regional Administrator of the EPA Region 7, is the Director of the Enforcement and Compliance Assurance Division, EPA Region 7.

6. Respondent is County Line Ag Services, LLC, a business in good standing under the laws of the State of Missouri, and doing business in the state of Missouri, which owns and operates the facility located at 40455 State Route Y, Graham, Missouri, 64455 (the Facility).

STATUTORY AND REGULATORY BACKGROUND

7. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 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. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates that the Administrator promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the chemical accident prevention regulations mandated by Section 112(r)(7), 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7), 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances.

8. On June 20, 1996, EPA promulgated a final rule, the Chemical Accident Prevention Provisions found at 40 C.F.R. Part 68 (commonly known as the Risk Management Plan Rule), which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). This rule requires owners and operators of stationary sources to develop and implement a Risk Management Program that includes a hazard assessment, a prevention program, and coordinate emergency response activities.

9. The regulations at 40 C.F.R. Part 68 set forth the requirements of a Risk Management Program that must be established at each stationary source. The Risk Management Program is described in a Risk Management Plan ("RMP") that must be submitted to EPA.

10. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

11. The regulations at 40 C.F.R. § 68.10 set forth how the chemical accident prevention provisions apply to covered processes. Pursuant to 40 C.F.R. § 68.10(h), a covered process is subject to Program 2 requirements if the process does not meet the eligibility requirements of either Program 1 or Program 3, as described in 40 C.F.R. § 68.10(g) and (i), respectively.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

20. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

21. Respondent is the owner or operator of the Facility.

22. Respondent’s Facility, located at 40455 State Route Y, Graham, Missouri, 64455 is a “stationary source” pursuant to 40 C.F.R. § 68.3.

23. EPA inspected Respondent’s Facility on November 14, 2018, and again on June 23, 2021, to determine compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68. Information collected as a result of these inspections revealed that Respondent had failed to properly implement the risk management program at the Facility.

24. At the time of the EPA inspections, Respondent had greater than 10,000 pounds of Anhydrous Ammonia in a process at the Facility.

25. Anhydrous Ammonia is a “regulated substance” pursuant to 40 C.F.R. § 68.3. The threshold quantity for Anhydrous Ammonia, as listed in 40 C.F.R. § 68.130, Table 1, is 10,000 pounds.

26. From the time Respondent first had onsite greater than 10,000 pounds of Anhydrous Ammonia in a process, Respondent was subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 because it was an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

27. From the time Respondent first had onsite greater than 10,000 pounds of Anhydrous Ammonia in a process, Respondent was subject to Program 2 prevention program requirements because, pursuant to 40 C.F.R. § 68.10(h), the process does not meet the eligibility requirements of either Program 1 or Program 3, as described in 40 C.F.R. § 68.10(g) and (i), respectively.

28. From the time Respondent first had onsite greater than 10,000 pounds of Anhydrous Ammonia in a process, Respondent was required under Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 2 requirements provided at 40 C.F.R. § 68.12(c).

FINDINGS OF VIOLATION

29. The facts stated above are herein incorporated.

12. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), grants the Administrator the authority to make a finding of violation of a requirement or prohibition of Title I of the CAA (Subchapter I of 42 U.S.C. Chapter 85), and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition.

DEFINITIONS

13. Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), defines “owner or operator” as any person who owns, leases, operates, controls, or supervises a stationary source.

14. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

15. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “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.

16. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130, Tables 1, 2, 3, and 4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

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

18. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

19. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and 40 C.F.R. § 68.3 define “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

ORDER FOR COMPLIANCE

32. Based upon the Findings of Fact and Conclusion of Law, and Findings of Violation set forth above, and pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), 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, EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than sixty (60) days after the effective date of this Order, unless otherwise specified below, complete the following compliance actions:

- (a) compile and maintain up to date safety information related to the regulated substances, processes, and equipment as required by 40 C.F.R. § 68.48(a).
- (b) conduct a review of the hazards associated with the regulated substances, process, and procedures as required by 40 C.F.R. § 68.50(a-d).
- (c) prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process consistent with the safety information for that process as required by 40 C.F.R. § 68.52(a-b).
- (d) certify that Respondent has evaluated compliance with the provisions of Subpart C of the regulations as required by 40 C.F.R. § 68.58(a-e).
- (e) ensure that the process is designed in compliance with recognized and generally accepted good engineering practices as required by 40 C.F.R. § 68.48(b), and
- (f) within thirty (30) days of the effective date of this Order, develop a narrative description of the actions taken to comply with the following industry standards:
 - (i) ANSI/CGA G-2.1 (2014), Section 5.4.3.3, which states that tanks missing data plates shall be inspected and tested to determine the information in 5.4.1.5, 5.4.1.6 and 5.4.1.7.
 - (ii) ANSI/CGA G-2.1 (2014), Section 5.6.8, which states that underground piping shall be evaluated at a minimum of every 5 years to ensure leak-tightness.
 - (iii) ANSI- CGA G 2.1 2014 section 5.10.8.1, which states that all stationary storage installations with a water capacity greater than 4000 gal shall have emergency shutoff valve(s) or backflow check valves installed in the liquid and vapor fixed piping of the transfer system within 5 lineal feet (1.5 m) or within reasonable distance of where the hose or swivel piping is attached to the fixed piping.

Program 2 Prevention Program Requirements

30. The regulation at 40 C.F.R. § 68.12(c) requires the owner or operator of a stationary source subject to the Program 2 requirements to comply with the prevention steps provided in §§ 68.48 through 68.60 of Subpart C. Specifically, during both EPA inspections, the inspectors identified the following deficiencies:

- (a) Failure to compile and maintain up to date safety information related to the regulated substances, processes, and equipment as required by 40 C.F.R. § 68.48(a). During both inspections, Respondent did not have information regarding safe upper and lower temperatures, pressures, flows, and compositions established for their process, or established process equipment specifications.
- (b) Failure to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices as required by 40 C.F.R. § 68.48(b). Specifically, during both EPA inspections, the inspectors noted tank corrosion and determined that the underground piping had not been inspected. During the June 23, 2021 EPA Inspection, the inspector noted there was not an emergency shutoff valve on the liquid fixed piping, an “Ammonia Fill” hose that was past its service date of 2016, illegible data plates on the 30,000-gallon storage tanks and tall grasses/vegetation between and under the nurse tanks containing Anhydrous Ammonia.
- (c) Failure to conduct a review of the hazards associated with the regulated substances, process, and procedures as required by 40 C.F.R. § 68.50(a-d).
- (d) Failure to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process consistent with the safety information for that process as required by 40 C.F.R. § 68.52(a-b). During the November 2018 Inspection, the facility was unable to provide written operating procedures. During the June 2021 Inspection, the written operating procedures failed to accurately describe the liquid ammonia shut off valve.
- (e) Failure to certify that the owner or operator has evaluated compliance with the provisions of Subpart C of the regulations at least every three years as required by 40 C.F.R. § 68.58(a-e). During both inspections, Respondent was unable to provide documentation that compliance audits had been performed.

31. Respondent’s failure to comply with the Program 2 Prevention Requirements of 40 C.F.R. §§ 68.48 through 68.60, as required by 40 C.F.R. § 68.12(c)(3), violates Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

- (iv) ANSI- CGA G 2.1 2014 section 10.1.2, which states that containers and cylinders shall be stored in an area free from ignitable debris and to prevent external corrosion.
 - (v) ANSI- CGA G 2.1 2014 section 5.7.8.8, which states that maximum service period hoses shall be permanently removed from service that have been installed and used over a period of time which exceeds the shorter service life of either: service life recommended by the manufacturer of the hose: or if used in conjunction with an additive. the service life of the ammonia hose as recommended by the manufacturer.
- (g) within seven (7) days of the submission of the Plan, address or correct any Plan deficiencies requested by the EPA.

SUBMISSIONS

33. Respondent must provide documentation of completion of these tasks as described above to EPA within 90 days of the effective date of this Order.

34. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative 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 on 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.

35. All submissions to EPA required by this Order shall be sent electronically to:

Jodi Harper
EPA Region 7
Enforcement and Compliance Assurance Division
harper.jodi@epa.gov

36. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law.

37. Upon request, Respondent may submit documents via hard copy to:

Jodi Harper
Chemical Accident Prevention Section, Air Enforcement Branch
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

GENERAL PROVISIONS

Potential Liability

38. Failure to comply with any of the provisions of this Order may result in an enforcement action under Section 113(b), (c) or (d) of the CAA, 42 U.S.C. § 7413(b), (c) or (d).

39. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), issuance of this Order does not preclude EPA from assessing penalties or taking any other action authorized under the CAA. This Order does not affect the obligation of Respondent to comply with all federal, state, and local statutes, regulations, and permits.

Amendment of Order

40. EPA may subsequently amend this Order, in writing, in accordance with the authority of the CAA. Any amendment will be transmitted to Respondent. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

41. If any provision or authority of the Order or the application of the Order to Respondent is held by federal judicial authority to be invalid, the application to Respondent of the remainder of the Order shall remain in full force and effect and shall not be affected by such a holding.

Access and Requests for Information

42. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect Respondent's facility, and/or to request additional information from Respondent pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

Effective Date

43. This Order shall become effective on the date that it is signed by the authorized EPA representative.

44. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

Termination

This Order shall terminate one year after the Effective Date of this Order, or at the time that EPA determines that Respondent has achieved compliance with all the terms of this Order, whichever is earlier.

Notice to the State

45. Pursuant to Section 113(a)(4), 42 U.S.C. § 7413(a)(4), the State of Missouri has been provided notice of this action.

For the U.S. ENVIRONMENTAL PROTECTION AGENCY:

Wendy Lubbe
Acting Director
Enforcement and Compliance Assurance Division

Date

For RESPONDENT:

By: Randy Whiggen

Title: Owner

Date: 2-16-22

CERTIFICATE OF SERVICE

In the Matter of: County Line Ag Services, LLC

Docket Number: CAA-07-2022-0003

I hereby certify that today I served a true and correct copy of this fully executed and filed EPA Administrative Order for Compliance on Consent, as follows:

Copy via email to Respondent:

Randy Waegle, *chrisw@grm.net*

Copy via email to representatives for the Complainant:

Elizabeth Huston
EPA Region 7 Office of Regional Counsel
huston.liz@epa.gov

Jodi Harper
EPA Region 7 Enforcement and Compliance Assurance Division
harper.jodi@epa.gov

Date:

Milady Peters
Paralegal Specialist
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7