

FILED

September 18, 2025

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**U.S. EPA REGION 7
HEARING CLERK**

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

IN THE MATTER OF:

Simmons Animal Nutrition, Inc.

Respondent.

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Docket No. CAA-07-2025-0031

ADMINISTRATIVE ORDER FOR COMPLIANCE ON CONSENT

Preliminary Statement

1. The United States Environmental Protection Agency, Region 7, is issuing this Administrative Order for Compliance on Consent (Order) to Simmons Animal Nutrition, Inc. (Respondent), pursuant to Section 113(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(B).

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 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 at karl.kumli@jacksonlewis.com, 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.

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 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 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.

5. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). These regulations require owners and operators of stationary sources to develop and implement a Risk Management Program that includes a hazard assessment, a prevention program, and an emergency response program.

6. 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.

7. 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.

8. 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(l), a covered process is subject to Program 3 requirements if the process does not meet the requirements of 40 C.F.R. § 68.10(g), and it either falls under a specified North American Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

9. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), grants the Administrator the authority to issue an order requiring compliance to any person who has violated or is violating the Risk Management Program regulations at 40 C.F.R. Part 68. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

Definitions

10. 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.

11. 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.

12. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 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.

13. 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, 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.

14. 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, in 40 C.F.R. § 68.130, Tables 1, 2, 3, and 4.

15. 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.

16. 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.

Findings of Fact and Law

17. Respondent is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

18. Respondent owns and operates a pet food manufacturing facility located at 832 East 3rd Street in Milan, Missouri (the Facility).

19. The Facility is a “stationary source” as defined by Section 112(r)(2)(C) of the CAA and in 40 C.F.R. § 68.3.

20. Respondent reported three accidental releases to the National Response Center prior to EPA’s inspection. On January 9, 2023, Respondent reported a release of 12 pounds of anhydrous ammonia due to a safety release valve failure. On February 23, 2023, Respondent reported a release of 2 pounds of anhydrous ammonia from a pipe freezer hose that broke open. On March 18, 2024, Respondent reported a release of 221 pounds of anhydrous ammonia because a fan blade shattered evaporator coils.

21. Due to these reported releases, which involve the mechanical integrity of process equipment, EPA identified Respondent's Facility for inspection. EPA inspected Respondent's Facility on July 9 through 11, 2024, to determine compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

22. At the time of the EPA inspection, Respondent had greater than 10,000 pounds of anhydrous ammonia in a process at the Facility.

23. Anhydrous ammonia is an extremely hazardous substance that is toxic, corrosive, and flammable. Exposure to anhydrous ammonia can cause serious injury or death.

24. 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.

25. Respondent is 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 is an owner and operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

26. Respondent is subject to Program 3 prevention program requirements because, pursuant to 40 C.F.R. § 68.10(l), the covered process at the Facility does not meet the requirements of 40 C.F.R. § 68.10(g) and is subject to the OSHA process safety management standard at 29 C.F.R. § 1910.119.

27. Respondent is required under Section 112(r)(7) of the CAA, 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 3 requirements provided at 40 C.F.R. § 68.12(d) and detailed in Subpart D.

28. During EPA's inspection, Respondent was unable to provide several requested documents relating to the Facility's risk management program. Since that time, Respondents have provided requested documentation to EPA.

Findings of Violation

29. The facts stated in Paragraphs 17 through 28, above, are herein incorporated.

Program 3 Prevention Elements

30. 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87.

Process Safety Information

31. 40 C.F.R. § 68.65(d)(2) requires the owner or operator to ensure and document that the process is designed and maintained in compliance with recognized and generally accepted good engineering practices (RAGAGEP).

32. RAGAGEP identified by Respondent as applicable to the Facility are the International Institute of All-Natural Refrigeration (IIAR) 9 – 2020, Minimum System Safety Requirements for Existing Closed-Circuit Ammonia Refrigeration Systems. Section 5.1 of IIAR 9 – 2020 requires that all equipment and system components are inspected, tested, and maintained in accordance with IIAR 6 – 2019, Standards for Inspection, Testing, and Maintenance of Closed-Circuit Ammonia Refrigeration Systems. The EPA inspection revealed many instances where Respondent's anhydrous ammonia process was not designed and maintained in compliance with RAGAGEP, as described below.

33. Table 11.1 of IIAR 6 – 2019 requires regular inspections of piping for pitting or surface damage, moisture incursion, degradation of protective coating, and insulation protective jacketing. IIAR 6 – 2019 Section 11.1.1.2 requires piping that has pitting, surface damage, corrosion or a combination thereof without materially reduced wall thickness to be cleaned and recoated to avoid deterioration. IIAR 6 – 2019 Section 11.1.1.3 requires piping with pitting, surface damage, corrosion or a combination thereof with material reduced wall thickness to be assessed for suitability for continued operation, and piping at or below replacement thickness must be isolated and replaced or decommissioned. The EPA inspection revealed that Respondent did not ensure and document the process was designed and maintained in compliance with Table 11.1 of IIAR 6 – 2019, as documented by numerous examples of pipe corrosion and instances of water under insulation on piping on the roof of the Facility creating a risk of corrosion, including:

- a. Algae growth on low temperature recirculated liquid and suction lines.
- b. Water under insulation indicated by bubbling insulation, ice against exposed insulation.
- c. Pitting and general corrosion of pipes.
- d. Exposed insulation on multiple sections of piping, including the high stage and high temperature recirculated suction lines.

Process Hazard Analysis

34. 40 C.F.R. § 68.67(e) requires the owner or operator to establish a system to promptly address process hazard analysis (PHA) recommendations and assure that the recommendations are resolved in a timely manner and that the resolution is documented.

35. The EPA inspection revealed that Respondent did not resolve PHA recommendations in a timely manner. Respondent's October 2023 PHA states that a recommendation with a risk ranking of 'A' must be completed "prior to startup of a new system

or modification OR within 3 months of completion of PHA.” Respondent assigned a risk ranking of ‘A’ to recommendation 2.15 of the October 2023 PHA. This recommendation required nondestructive testing on coils of an old condenser to ensure the walls of the coils were thick enough for the equipment to safely operate. However, Respondent had not resolved the recommendation at the time of the July 2024 inspection, nine months after the recommendation was made, yet had marked recommendation 2.15 as completed in August 2024, a date that had not occurred at the time of the inspection.

Emergency Response

36. 40 C.F.R. § 68.95 requires the owner or operator to develop and implement an emergency response program to protect public health and the environment. 40 C.F.R. § 68.95(a)(4) requires the emergency response program include procedures for reviewing and updating, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes.

37. The EPA inspection revealed that Respondent did not have procedures for reviewing and updating the Facility’s hazard material response document (emergency response plan) to reflect changes and ensure that employees are informed of changes to the document.

38. Respondent’s failure to comply with the emergency response requirements described above, as required by 40 C.F.R. § 68.95, violate Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Risk Management Plan

39. 40 C.F.R. § 68.165 sets forth requirements for the offsite consequence analysis, and 40 C.F.R. § 68.165(a)(2) requires, for Program 3 processes, the owner or operator to submit information on one alternative release scenario for each regulated toxic substance held above the threshold quantity. Further, 40 C.F.R. § 68.165(b)(12) requires the owner or operator to submit in the RMP data on public and environmental receptors within the distance to endpoint of the alternative release scenarios in the RMP. *See also* 40 C.F.R. § 68.30(b).

40. The EPA inspection revealed that Respondent did not submit all public receptors within the distance to endpoint of the alternative release scenario. Specifically, the alternative release scenario map provided by Respondent shows a commercial facility/public receptor within the distance to endpoint of the alternative release scenario, but the Facility’s RMP does not identify any commercial/industrial facilities present within alternative release scenario distance to endpoint.

41. Respondent’s failure to identify all public receptors within the distance to endpoint of the alternative release scenario in the RMP, as required by 40 C.F.R. § 68.165(b)(12), violates Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Order for Compliance

42. Based upon the findings 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 take all necessary actions to correct, eliminate, and prevent recurrence of the alleged violations cited above and come into compliance with applicable requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

43. Within thirty (30) days of the Effective Date, Respondent shall:

- a. Develop and implement procedures for reviewing and updating the Facility's emergency response plan to reflect changes and ensure that employees are informed of changes to the document, as required by 40 C.F.R. § 68.95.
- b. Update the offsite consequence analysis for the RMP to include all public receptors, as required by 40 C.F.R. § 68.165(b)(12).

44. Within sixty (60) days of the Effective Date, develop and submit for EPA approval a plan to address the mechanical integrity and RAGAGEP violations identified above (Compliance Plan). The Compliance Plan must include the following:

- a. A description of actions to correct any deficiencies identified during the scheduled nondestructive testing on condenser coils to ensure coil walls are thick enough for safe operation, consistent with Respondent's PHA recommendation and as required by 40 C.F.R. § 68.67(e).
- b. A description of actions to correct all RAGAGEP deficiencies and ensure and document that the Facility is in compliance with 40 C.F.R. § 68.65(d)(2), IIAR 6 – 2019, and IIAR 9 – 2020 Addendum A-2024. This includes addressing identified deficiencies with piping conditions, relief system design, and any other identified RAGAGEP deficiencies.
- c. A schedule for implementation of each compliance action, including any significant milestones prior to completion. All actions must be completed within 180 days of the Effective Date.

45. Review and Approval. EPA will review and approve the Compliance Plan as follows:

- a. If EPA approves the Compliance Plan, it shall be implemented according to the schedule for implementation in the approved Compliance Plan.

- b. If the EPA does not approve the Compliance Plan, Respondent shall address EPA's comments and resubmit the Compliance Plan for review within fifteen (15) days of receipt of EPA's disapproval.
- c. Upon resubmission, the EPA, in its sole discretion, may either approve the Compliance Plan, or if the EPA determines that the Compliance Plan does not adequately address the Agency's comments, EPA may modify the Compliance Plan and will provide Respondent with a copy of the Compliance Plan as modified. Respondent shall implement the modified Compliance Plan according to the schedule contained therein.

46. Once approved or modified by the EPA, the Compliance Plan identified above shall be incorporated by reference and fully enforceable under the terms of this Order.

Submissions

47. Initial Report: Within sixty (60) days of the Effective Date, Respondent shall submit an initial report documenting the actions taken to comply with Paragraph 43, above. The report shall include a description of each action taken and copies of relevant documents.

48. Completion Report: Within thirty (30) days of completion of the actions identified in the Compliance Plan, Respondent shall submit a completion report, which must include photographs documenting completion of the work, copies of relevant documents including mechanical integrity inspections and tests, and a signed statement indicating that the work is complete.

49. 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.

50. All submissions to EPA required by this Order shall be sent by electronic mail to:

Christina Gallick
gallick.christina@epa.gov
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

51. 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.

General Provisions

Potential Liability

52. Failure to comply with this Order may subject Respondent to penalties of up to \$59,114 per day of violation under Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), or up to \$124,426 per day of violation under Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2).

53. 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.

Taxpayer Identification Number

54. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent’s failure to provide IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent agrees that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at sherrer.dana@epa.gov within 30 days after the Effective Date of this Order, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

Amendment of Order

55. 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.

56. 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

57. 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

58. This Order shall become effective on the date that it is signed by the authorized EPA representative (Effective Date).

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

Termination

60. This Order shall terminate one year after the Effective Date, or when a written notice of termination issued by an authorized representative of EPA stating that all requirements of this Order have been met, whichever is earlier.

Notice to the State

61. 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:

Date

David Cozad
Director
Enforcement and Compliance Assurance Division

For RESPONDENT:

SIMMONS ANIMAL NUTRITION, INC.

By: 

Title: Vice President of Operations

Date: Sept. 16, 2025

CERTIFICATE OF SERVICE

(to be completed by EPA)

I certify that on the date noted below I hand delivered the original and one true copy of this Administrative Order for Compliance on Consent to the Regional Docket Clerk, United States Environmental Protection Agency, 11201 Renner Blvd, Lenexa, Kansas 66219.

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Kasey Barton, EPA, *barton.kasey@epa.gov*

Christina Gallick, EPA, *gallick.christina@epa.gov*

Dave Hensley, EPA, *hensley.david@epa.gov*

Carrie Venerable, EPA, *venerable.carrie@epa.gov*

Copy via E-mail to Attorney for Respondent:

Karl F. Kumli, Attorney
karl.kumli@jacksonlewis.com
Jackson Lewis P.C.
75 Park Plaza
Boston, Massachusetts 02116

Dated this _____ day of _____, _____.

Signed