

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of)
)
CertainTeed Corporation)
103 Funston Rd.)
Kansas City, Kansas)
)
AIR ID # 20-209-00001)
FRS # 110000445536)
)
Respondent.)

EPA Docket No. CAA-07-2006-0239

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to Section 113(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(B), as amended, CertainTeed Corporation (hereinafter "CertainTeed") is hereby ordered by the United States Environmental Protection Agency (EPA) to comply with the requirements of Section 112 of the CAA, 42 U.S.C. § 7412. Specifically, EPA orders CertainTeed to comply with the National Emission Standards for Hazardous Air Pollutants (NESHAPS), Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

I. 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 to Title I of the Clean Air Act, 42 U.S.C. § 7412, which grants the Administrator of EPA authority to regulate hazardous air pollutants (HAPs) which may have an adverse effect on health or the environment.

2. The Administrator established emission standards, codified at 40 C.F.R. Part 63, Subpart NNN, for each wool fiberglass manufacturing facility that is a major source or located at a facility that is a major source. These standards are called NESHAPs. Wool fiberglass manufacturing facilities have the potential to emit HAPs such as arsenic, chromium, lead, formaldehyde, phenol and methanol, which are HAPs listed in or pursuant to Section 112(b) of the Act.

3. The provisions of 40 C.F.R. Part 63, Subpart NNN, apply to the following existing and newly constructed sources located at a wool fiberglass manufacturing facility: All glass-melting furnaces, rotary spin manufacturing lines that produce bonded building insulation, and flame attenuation manufacturing lines producing bonded pipe insulation. Subpart NNN

establishes a formaldehyde emission standard for each affected wool fiberglass manufacturing line.

4. 40 C.F.R. § 63.1384 requires, inter alia, the owner or operator subject to the provisions of 40 C.F.R. Part 63, Subpart NNN, to demonstrate initial compliance with the formaldehyde emission standards by conducting a performance test on each rotary spin manufacturing line while producing the building insulation with the highest Loss of Ignition (LOI) expected to be produced on that line. During the initial performance test, the owner or operator must monitor and record the glass pull rate of the furnace and the glass pull rate of each manufacturing line during each of the three test runs and determine the emission rate for each run. A determination of compliance is based on the average of the three individual test runs.

5. Section 113(a)(3) of the Clean Air Act grants the Administrator of the 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.

II. Definitions

6. Section 111(a)(3) of the Act, 42 U.S.C. § 7411(a)(3), and 40 C.F.R. § 63.2 define a “stationary source” as “any building, structure, facility, or installation which emits or may emit any air pollutant” which has been designated as hazardous by the Administrator of the EPA.

7. Pursuant to 40 C.F.R. § 63.2, “Major source” is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless the Administrator establishes a lesser quantity.”

8. Pursuant to 40 C.F.R. § 63.2, “owner or operator” is defined as “any person who owns, leases, operates, controls, or supervises a stationary source.”

9. Pursuant to 40 C.F.R. § 63.1381, “rotary spin” (RS) is defined as “a process used to produce wool fiberglass building insulation by forcing molten glass through numerous small orifices in the side wall of a spinner to form continuous glass fibers that are then broken into discrete lengths by high-velocity air flow.”

10. Pursuant to 40 C.F.R. § 63.1381, “manufacturing line” is defined as “the manufacturing equipment for the production of wool fiberglass that consists of a forming section where the molten glass is fiberized and a fiberglass mat is formed and which may include a curing section where binder resin in the mat is thermally set and a cooling section where the mat is cooled.”

11. Pursuant to 40 C.F.R. § 63.1381, “building insulation” is defined as “bonded wool fiberglass insulation, having a loss on ignition of less than 8 percent and a density of less than 32 kilograms per cubic meter.”

12. Pursuant to 40 C.F.R. § 63.1381, “Loss on Ignition (LOI)” is defined as “the percent decrease in weight of wool fiberglass after it has been ignited. The LOI is used to monitor the weight percent of binder in wool fiberglass.”

13. Pursuant to 40 C.F.R. § 63.1381, “Glass pull rate” is defined as “the mass of molten glass that is produced by a single glass-melting furnace or that is used in the manufacture of wool fiberglass at a single manufacturing line in a specified time period.”

III. Factual Background

14. CertainTeed is owner and operator of a facility located at 103 Funston Road, Kansas City, Kansas (hereinafter “CertainTeed’s Facility” or “Facility”).

15. CertainTeed manufactures Metal Building Insulation (MBI) on the K-11 manufacturing line at the Facility.

16. EPA inspected CertainTeed’s Facility on June 18, 2003, to determine compliance with 40 C.F.R. Part 63, Subpart NNN.

17. EPA issued an information request to CertainTeed on March 21, 2005, which requested information on CertainTeed’s Metal Building Insulation. CertainTeed provided its response on May 9, 2005.

18. EPA conducted a follow up inspection at CertainTeed’s Facility on July 26, 2006, to determine compliance with the Clean Air Act, 42 U.S.C. § 7401 *et seq.*

IV. Conclusions of Law

19. CertainTeed is a “person” as defined by Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).

20. CertainTeed’s facility is a “stationary source” pursuant to 40 C.F.R. § 68.3.

21. CertainTeed’s facility is a “major source” pursuant to 40 C.F.R. § 68.3.

22. CertainTeed’s K-11 manufacturing line is a rotary spin manufacturing line that is subject to the requirements found in 40 C.F.R. Part 63, Subpart NNN.

23. CertainTeed’s Metal Building Insulation, which is produced on the K-11 manufacturing line, is “building insulation” pursuant to 40 C.F.R. § 63.1381.

24. Pursuant to 40 C.F.R. § 63.1384, CertainTeed is required to demonstrate initial compliance with the formaldehyde emission limits by conducting a performance test on each rotary spin manufacturing line while producing the building insulation with the highest LOI expected to be produced on that line. During the initial performance test, the owner or operator must monitor and record the glass pull rate of the furnace and the glass pull rate of each

manufacturing line during each of the three test runs and determine the emission rate for each run. A determination of compliance will be based on the average of the three individual test runs.

V. Finding of Violation

25. Based on information obtained from CertainTeed, including information obtained during the EPA inspections referenced in paragraph 16 and 18 above, and CertainTeed's May 9, 2005 information request response, CertainTeed has not conducted the performance test required by 40 C.F.R. § 63.1384 on the building insulation with the highest LOI expected to be produced on the K-11 manufacturing line because CertainTeed has not conducted the performance test while producing Metal Building Insulation.

VI. PERFORMANCE TEST

Pursuant to Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as amended, EPA is issuing this Order which requires CertainTeed to demonstrate compliance with Section 112 of the Act and to comply with the provisions of 40 C.F.R. Part 63, Subpart NNN, as outlined below:

26. As expeditiously as possible, but in no event later than 300 days following the effective date of this Order, CertainTeed must comply with the provisions of 40 C.F.R. § 63.1384 by conducting a performance test on the building insulation with the highest LOI expected to be produced on the K-11 manufacturing line. Based on information available to EPA, the performance test must be conducted on CertainTeed's Metal Building Insulation.

27. CertainTeed must notify EPA of the date of the performance test no later than 30 days in advance of the performance test described in paragraph 26 above.

28. CertainTeed must provide a final report of the performance test results to EPA within 30 days of the conclusion of the performance test.

29. The initial notification and final report required by the above paragraphs shall be sent to:

Kevin Barthol
U.S. EPA Region 7
901 N. 5th Street
Kansas City, Kansas 66101.

VII. Potential Liability

30. Section 113(a)(3)(B) of the Clean Air Act grants EPA the authority to issue an order to any person found in violation of the Clean Air Act and the regulations promulgated pursuant thereto.

31. Section 113(a)(3) of the Clean Air Act provides that upon failure to comply with an order issued under Section 113(a)(3)(B), the EPA Administrator may, inter alia: issue an administrative penalty order pursuant to Section 113(d) for civil administrative penalties of up to \$25,000 per day of violation; or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties of not more than \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and the Civil Monetary Penalty Inflation Adjustment Rule, this penalty maximum was increased to \$32,500 per day for violations occurring on or after March 15, 2004. In addition, CertainTeed may be subject to an administrative or civil action for similar penalties and/or injunctive relief, pursuant to Sections 113(b) and (d) of the Clean Air Act, based on the violations addressed by this Order. Furthermore, for any person who knowingly violates the provisions of the Clean Air Act as set forth in Section 113(c) of the Clean Air Act, Section 113(c) provides for criminal penalties or imprisonment, or both.

32. This Order shall not relieve CertainTeed of its obligation to comply with all applicable federal, State, and local laws, regulations and other legal requirements, including but not limited to the Clean Air Act, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State, or local permit.

33. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of a regulated substance, other extremely hazardous substance, or other substance on, at, or from the Facility. EPA reserves the right to bring an action against CertainTeed assessing or seeking penalties and/or other relief for any violations, including, without limitation, the violations referred to in the Finding of Violation above. This Order shall not constitute or be construed as a release of any liability that the CertainTeed or any other person has under the Clean Air Act, the Safe Drinking Water Act, 42 U.S.C. Sections 300f to 300j-26, the Clean Water Act, 33 U.S.C. Sections 1251-1387, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601-9675, the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. Sections 11001-11050, or any other law. EPA also reserves all of its rights to obtain access to the Facility and require CertainTeed's submission of information to EPA.

EFFECTIVE DATE:
OPPORTUNITY FOR A CONFERENCE

34. This Order shall become effective immediately upon receipt unless, within five (5) business days of receipt hereof, CertainTeed requests a conference with EPA concerning the violations alleged in, and the requirements of, this Order. CertainTeed has the right to be represented by counsel at such a conference. If a conference is held, this Order shall become effective the day after the conference, unless the effective date is extended by EPA. In the event the effective date is extended by EPA, the timeframes herein shall be adjusted to provide for compliance with the Order within one year of its issuance.

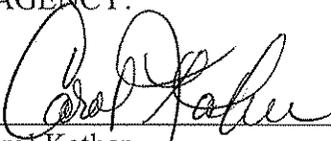
*In the Matter of
CertainTeed Corporation*

35. The request for a conference and other inquiries concerning this Order shall be addressed to:

Jonathan W. Meyer
Assistant Regional Counsel
United States Environmental Protection Agency, Region VII
901 North Fifth Street
Kansas City, Kansas 66101
Phone: (913) 551-7140
Fax: (913) 551-7925.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date 8/31/04



Carol Kather
Acting Director
Air, RCRA, and Toxics Division

CERTIFICATE OF SERVICE

I certify that the original and one true and correct copy of the foregoing Administrative Compliance Order were hand-delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101; and a true and correct copy of the foregoing Administrative Compliance Order was mailed by certified mail, return receipt requested, to:

Lauren P. Alterman
Associate General Counsel
Saint-Gobain Corporation
750 East Swedesford Road
Valley Forge, PA 19482

8/31/06
Date

Janet M. Mey