

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF)

HUISINGA FERTILIZER, LLC.,)

Respondent)

Docket No. CAA-07-2016-0021

ADMINISTRATIVE ORDER FOR COMPLIANCE

Pursuant to Section 113(a)(3)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3)(B), as amended, Huisinga Fertilizer (“Respondent” or “Huisinga”), is hereby ordered by the United States Environmental Protection Agency (“EPA”) to comply with the 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, and to take the specific compliance actions set forth below.

Statutory and Regulatory Background

1. 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 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 the Administrator to 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) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances, 42 U.S.C. § 7412(r)(7).

2. 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), 42 U.S.C. § 7412(r)(7), of the CAA. 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.

3. 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.

4. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, the RMP must be submitted for all covered processes, by an 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.

5. Section 113(d) of the CAA, 42 U.S.C. § 7413(d) grants the Administrator the authority to make 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.

6. Respondent may seek federal judicial review of the Order pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

7. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), grants EPA the authority to issue an Order to any person found in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), or the regulations promulgated pursuant thereto.

Definitions

8. 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.

9. 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.

10. 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.

11. 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.

Factual Background

12. Huisinga 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).

13. Huisinga’s facility, located at 19481 310th Street in Parkersburg, Iowa, is a “stationary source” pursuant to 40 C.F.R. § 68.3.

14. EPA inspected Huisinga’s Parkersburg, Iowa facility on September 10, 2015, 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 this inspection revealed that Huisinga had failed to properly implement the risk management program at the facility.

15. 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.

16. At the time of the inspection, Huisinga had more than 10,000 pounds of anhydrous ammonia in a process at the Parkersburg, Iowa facility.

Finding of Violation

17. The facts stated in Paragraphs 12 through 16, above, are herein incorporated.

18. Huisinga 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 the owner and operator of a stationary source that had more than the threshold quantity of a regulated substance in a process.

19. Huisinga failed to comply with the requirements of 40 C.F.R. Part 68, as follows, in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r):

- (i) Failure to revise and update the RMP at least once every five years from the date of its initial submission or most recent update (40 C.F.R. § 68.190).
- (ii) Failure to correct the emergency contact information required at 68.160(b)(6) within thirty days of the change (40 C.F.R. § 68.195(b)).
- (iii) Failure to estimate in the RMP the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint (40 C.F.R. § 68.30(a)).
- (iv) Failure to review and update the off-site consequence analyses at least once every five years (40 C.F.R. § 68.36(a)).

- (v) Failure in the worst case scenario to describe the vessel or pipeline and substance selected, assumptions and parameters used, the rationale for selection, and anticipated effect of the administrative control and passive mitigation on the release quantity and rate (40 C.F.R. § 68.39(a)).
- (vi) Failure to compile and maintain codes and standards used to design, build, and operate the process. (40 C.F.R. § 68.48(a)(5)).
- (vii) Failure to ensure the process is designed in compliance with recognized and generally accepted and good engineering practices (40 C.F.R. § 68.48(b)).
- (viii) Failure to review and update the hazard review at least once every five years or whenever a major change in the process occurs (40 C.F.R. § 68.50(d)).
- (ix) Failure to perform or cause to be performed inspections and tests on process equipment that follow recognized and generally accepted good engineering practices (40 C.F.R. § 68.56(d)).
- (x) Failure to certify it has evaluated compliance with the provisions of 40 C.F.R. 68 Subpart C – Program 2 Prevention Program at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed (40 C.F.R. § 68.58(a)).

Order for Compliance

20. Based on the Factual Background and Finding 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), as amended, Huisinga, is hereby ORDERED to take the actions described below.

21. Within 60 days of the effective date of this Administrative Order for Compliance (“Order”), Huisinga must comply with the 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, including, but not limited to, completion of the following compliance actions:

- (i) develop a Risk Management Program for the Huisinga Fertilizer, LLC, which complies with the appropriate Program level, as set out in the eligibility requirements in 40 C.F.R. § 68.10,
- (ii) maintain records supporting the implementation of the Risk Management Program in accordance with 40 C.F.R. § 68.200;
- (iii) submit a Risk Management Plan that includes the information required by 40 C.F.R. §§ 68.155 through 68.185,

- (iv) develop a narrative description of the actions to be taken to comply with the following industry standards, as well as a schedule for their implementation:
- i. CGA G-2.1 (2014), Section 6.4.2, states that if supports of the saddle type are employed, the baring afforded by the saddles shall extend over at least one-third of the circumference of the shell;
 - ii. CGA G-2.1 (2014), Section 5.4.3.3, states that tanks missing dataplates shall be inspected and tested to determine the information in 5.4.1.5, 5.4.1.6 and 5.4.1.7. One 12,000 gallon vessel had no nameplate;
 - iii. CGA G-2.1-2014, Section 5.6.8, states that underground piping shall be evaluated at a minimum of every 5 years to ensure leak-tightness;
 - iv. CGA G-2.1-2014, Section 5.8.16, states that a pressure relief valve shall be replaced no later than 5 years following the date of its manufacture or last repair unless it has first been disassembled, inspected, repaired, and tested by the manufacturer, or by a qualified repair organization so that the valve's condition and performance is certified as being equivalent to the standards for the original valve.
 - v. CGA G-2.1-2014, Section 5.7.8.8, states hoses shall be permanently removed from service that have been installed and used over a period of time which exceeds the service life recommended by the manufacturer of the hose. A flexible hose on the nurse tank loadout station adjacent to the storage tank had indicated a "remove no later than: date of 2004.

All such actions/work shall be completed as expeditiously as possible, but no later than 60 days of the effective date of this order. EPA will review and may provide comments on the actions and schedule to comply with industry standards.

22. Huisinga must provide documentation of completion of these tasks to EPA within 90 days of the effective date of this Order. All documentation shall be submitted to in accordance with Paragraph 21 of this Order.

Submissions

23. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative of Huisinga:

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.

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

Christine Hoard
Chemical & Oil Release Prevention Branch
U.S. Environmental Protection Agency – Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

25. Pursuant to 40 C.F.R §§ 2.201-2.311, Huisinga may assert a business confidentiality claim covering any portion of the submitted information that is entitled to confidential treatment. For any such claim, describe the basis of the claim under the applicable regulation. Any material for which business confidentiality is claimed should be placed in a separate envelope labeled, “Confidential Business Information.” Failure to assert a claim in the manner described in 40 C.F.R. § 2.203(b) allows EPA to release the submitted information to the public without further notice. EPA may disclose information subject to the business confidentiality claim only to the extent set forth in the above-cited regulations.

General Provisions

Potential Liability

26. Failure to comply with any of the provisions of this Order may result in an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. Under Section 113(a) of the CAA, 42 U.S.C. § 7413(a), the Administrator is authorized to address such a violation as follows:

- (i) issue an administrative penalty order assessing a civil penalty not to exceed \$37,500 per day of violation;
- (ii) bring a civil action for permanent or temporary injunction, or to recover a penalty not to exceed \$37,500 per day of violation, or both; or

- (iii) request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

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

Amendment of Order

28. 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.

Access and Requests for Information

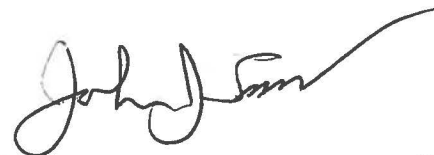
29. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the Huisinga facility, and/or to request additional information from Huisinga Fertilizer, LLC pursuant to the authority of Section 114 of the CAA, 42 U.S.C. §7414.

Effective Date

30. The terms of this Order shall be effective and enforceable against Huisinga upon its receipt of the Order.

9/2/16

Date



Becky Weber

Director

Air and Waste Management Division

CERTIFICATE OF SERVICE

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

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance by first class certified mail, return receipt requested, to:

Lyle E. Huisinga
19535 310th Street
Parkersburg, Iowa 50665

9-6-2016
Date

