

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

Received by
EPA Region 7
Hearing Clerk

BEFORE THE ADMINISTRATOR

In the Matter of:)	
)	
New Heaven Chemicals Iowa, LLC)	Docket No. CAA-07-2022-0005
)	CWA-07-2022-0004
Respondent)	
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ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

PRELIMINARY STATEMENT

1. This Administrative Compliance Order on Consent (“Order”) is entered into voluntarily by the U.S. Environmental Protection Agency (“EPA”) and by New Heaven Chemicals Iowa, LLC, pursuant to Section 113(a)(3) of the Clean Air Act (the “CAA”), 42 U.S.C. § 7413(a)(3), and Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a)(3), as amended.

2. On the EPA’s behalf, the Director for the Enforcement and Compliance Assurance Division is delegated the authority to issue this Order under Section 113(a) of the CAA and Section 309 of the CWA.

3. Respondent is New Heaven Chemicals Iowa, LLC, a limited liability company doing business in the State of Iowa.

4. 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 be bound by the requirements set forth herein, and (4) consents to personal service by electronic mail. 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 on Consent, including, but not limited to, any right of judicial review 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.

5. Respondent neither admits the jurisdictional allegations set forth herein and neither admits nor denies the specific factual allegations and alleged violations stated herein.

STATUTORY AND REGULATORY BACKGROUND

6. In response to growing public concern and awareness of the threats posed by accidental release of extremely hazardous substances, Congress amended the CAA in 1990 to include the accidental release provisions found in Section 112(r), 42 U.S.C. § 7412(r). The objective of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), is to prevent the accidental release, and to minimize the consequence of any such release, of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

7. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), commonly referred to as the General Duty Clause, is designed to impose a general duty on owners and operators to operate a safe facility free of accidental releases that threaten life or property by taking all feasible actions that are available to reduce hazards which are known to exist at the facility, or which have been identified for similar facilities in the same industrial group. S. Rep. No. 228, 101st Cong., 1st Sess. 208 (1989).

8. Specifically, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), sets forth that owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty in the same manner and the same extent as the Occupational Safety and Health Act, 29 U.S.C. § 654 *et seq.*, to identify hazards which may result from accidental releases using appropriate hazard assessment techniques, to design and maintain a safe facility, taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

9. Pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3), EPA promulgated a list of substances, which in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. This list is codified at in the code of federal regulations at 40 C.F.R. § 68.130.

10. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines “stationary source” as any buildings, structures, equipment, installation or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

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), 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.

13. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), defines “regulated substance” as a substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3).

14. The term “extremely hazardous substance” means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability or corrosivity.¹ The term includes, but is not limited to, regulated substances listed in Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and 40 C.F.R. 68.130. Also, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion, or other reaction would create a presumption that such substance is extremely hazardous. Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101st Congress, 1st Session 211 (1989).

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

16. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), grants the Administrator the authority to make a finding of violation of a requirement or prohibition of Title I, which includes Section 112(r), and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition.

17. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits discharge of pollutants from a point source into navigable waters of the United States, except in compliance with, *inter alia*, a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 provides that pollutants may be discharged into navigable waters of the United States only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that section.

18. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

19. The Iowa Department of Natural Resources (“IDNR”) is the state agency with the authority to administer the federal NPDES program in Iowa pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and the implementing regulations.

20. The EPA retains concurrent enforcement authority with authorized state NPDES programs under Section 309 of the CWA, 33 U.S.C. § 1319.

21. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), authorizes the EPA to issue administrative orders to require persons to take those actions necessary to comply with the

requirements of the CWA.

FINDINGS OF FACT AND LAW

22. Respondent is a “person” as defined in Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e), and Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

23. Respondent is the owner and operator of the chemical manufacturing facility located at 1535 380th Street, Manly, Iowa (the “Facility”).

24. The Facility is a “stationary source” as defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

25. EPA conducted a multi-media inspection of the Facility on July 26-28, 2021, pursuant to its information gathering authorities under the CAA and the CWA. The Facility was not operating during EPA’s inspection.

26. EPA selected the Facility for inspection because a recent Leak Detection and Repair (LDAR) test, required by 40 C.F.R. Part 63, Subpart H, and conducted by a contractor employed by New Heaven and submitted to the State of Iowa, identified some concerning releases. An initial LDAR inspection and inventory of components regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements occurred during the week of June 21, 2021. It showed 34 leaking components. Initial repair was attempted immediately on all leaks. Following the initial repair attempt, 11 leaking components remained. The remaining leaks have since been addressed, with 10 components repaired and one component removed from service. These repairs included replacing gaskets, tightening bolts, closing valves, tightening valve packing, connector tightening, replacing a plug seal, and reseating a pressure relief valve.

27. Respondent’s chemical manufacturing company has been in operation since late 2016. The facility can produce 20,000 metric tons per year of sodium methylate solution (also referred to as SMO or sodium methoxide). Sodium Methylate is used as a catalyst in biodiesel production. Methanol and sodium hydroxide are the raw materials used in the production of sodium methylate.

28. Respondent produces, processes, handles and/or stores bulk quantities of methanol and sodium methylate solution (SMO).

29. Methanol and sodium methylate solution have the following characteristics.

- (A) Methanol is a colorless volatile liquid with a faintly sweet pungent odor like that of ethyl alcohol. Methanol completely mixes with water. The vapors are slightly heavier than air and may travel some distance to a source of ignition and flash back. Any accumulation of vapors in confined spaces, such as buildings or sewers, may explode if ignited. It is used to make chemicals, to remove water from automotive and aviation fuels, as a solvent for paints and plastics, and as an ingredient in a wide variety of

products. Exposure to excessive vapor causes eye irritation, headache, fatigue, and drowsiness. High concentrations can produce central nervous system depression and optic nerve damage. 50,000 parts per million will probably cause death in one to two hours. Methanol can be absorbed through skin. Swallowing may cause death or eye damage. The level at which it is immediately dangerous to life or health (“IDLH”) is 6,000 ppm. Methanol is a highly flammable substance that can be ignited under almost all ambient temperature conditions, with a flash point of 52°F. Methanol’s lower explosive limit (“LEL”) is 6% and upper explosive limit (“UEL”) is 36.5% (CAMEO Chemicals).

- (B) Sodium methylate solution (SMO) is colorless cloudy white liquid consisting of sodium methylate, a solid, dissolved in methyl alcohol. It is corrosive to metals and tissue. Used to process edible fats and oils and as a catalyst in chemical manufacture. It is highly flammable, ignites in moist air, and reacts with water to produce a mixed solution of sodium hydroxide and methyl alcohol. It can be ignited by heat, sparks or flames. Vapors may form explosive mixtures with air. Vapors may travel to source of ignition and flash back. Most vapors are heavier than air. They will spread along ground and collect in low or confined areas (sewers, basements, tanks) causing vapor explosion hazard indoors, outdoors, or in sewers. Runoff to sewer may create fire or explosion hazard. Containers may explode when heated. SMO is a strong base. It reacts with light metals forming hydrogen gas with fire and explosion hazards (CAMEO Chemicals). New Heaven Chemicals Iowa, LLC’s SMO LEL is 6%, UEL is 50%, and its flash point is 92.3-96°F (New Heaven Chemicals Iowa, LLC’s safety data sheet).

Accordingly, each of these substances is an “extremely hazardous substance” within the meaning of the General Duty Clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

30. New Heaven’s maximum storage quantity inventory of methanol is 250 kiloliters, equivalent to 66,043 gallons, or about 435,004 pounds. New Heaven Chemicals Iowa, LLC’s maximum storage quantity inventory of SMO is 350 kiloliters, equivalent to 92,460 gallons, or about 748,468 pounds.

31. Respondent is subject to the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), because it is the owner and operator of a stationary source that is producing, processing, handling or storing substances listed pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3) and/or extremely hazardous substances pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B).

32. During the July 2021 inspection, EPA observed that New Heaven had not completed a hazard assessment, hazard review, or process hazard analysis.

33. The National Fire Protection Association’s Flammable and Combustible Liquids

Code, NFPA 30, section 6.4.1 states that “operations involving ignitable (flammable or combustible) liquids shall be reviewed to ensure that fire and explosion hazards are addressed by fire prevention, fire control, and emergency action plans, except as provided in 6.4.1.1.”

34. During the inspection, EPA observed that several of the facility’s components were made of aluminum. One condenser was installed with malleable iron tubes instead of stainless steel. Because of this, iron was being leached from the tubes and into the non-process water during operation which led to nearly continuous non-process effluent violations. This led to elevated iron levels in Hew Heaven Chemicals Iowa LLC’s wastewater. Upon discovering this, the facility raised the pH of the non-process water to reduce leaching of iron from the condenser.

35. New Heaven’s sodium methylate solution (SMO) 30% SDS list aluminum, lead, brass, zinc, and tin as incompatible materials. SMO is corrosive to these metals. New Heaven insulated its SMO piping with aluminum insulation. EPA observed corroded insulation that could have been exposed to SMO.

36. During the inspection, EPA observed two blowers, condensate columns, and a pump that were currently removed from service. The pump had been removed from service due to the June 2021 LDAR study.

37. NFPA 30, section 21.8 “Inspection and Maintenance of Storage Tanks and Storage Tank Appurtenances,” requires that each tank constructed of steel be inspected and maintained per API [American Petroleum Institute] Standard 653 Tank Inspections, Repairs, Alterations, and Reconstructions, or STI [Steel Tank Institute] SP001, Standard for the Inspection of Aboveground Storage Tanks. Both standards require formal reoccurring in service inspections, external inspections, and internal inspections.

38. Respondent’s Facility discharges wastewater to Beaver Creek, a tributary to Shell Rock River, which in turn discharges to Cedar River.

39. Beaver Creek, Shell Rock River and Cedar River are “navigable waters” of the United States, as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

40. Respondent’s wastewater contains “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

41. Respondent’s Facility is a “point source” that “discharges pollutants” into “navigable waters” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

42. On or about February 15, 2016, the IDNR granted NPDES permit number IA0052535 (hereafter “Permit”) to the Respondent for discharges from the Facility to Beaver Creek subject to compliance with conditions and limitations set forth in the Permit. The IDNR amended the Permit on May 12, 2016, and again on August 1, 2017. The Permit expired on February 14, 2021. The permit has been administratively extended by IDNR.

43. The EPA and Respondent entered into an Order for Compliance on Consent to New Heaven Chemicals on December 27, 2018, Docket No. CWA-07-2019-0035.

44. The EPA and Respondent entered into a Consent Agreement and Final Order resolving penalties for CWA violations on March 26, 2019, Docket No. CWA-07-2018-0300.

45. The Facility did not meet the requirements identified in the EPA issued order on consent CWA-07-2019-0035.

46. The Facility did not meet the requirements identified in the EPA issued consent agreement and final order CWA-07-2018-0300.

47. The Facility is currently not operating. The Facility intends to re-start operations in the future. “**Start-up**” means the setting into operation of a chemical manufacturing process unit or a reactor, air oxidation reactor, distillation unit, waste management unit, or equipment required or used to comply with 40 C.F.R Part 63, Subparts F, G, or a storage vessel after emptying and degassing. “Start-up” includes initial start-up, operation solely for testing equipment, the recharging of equipment in batch operation, and transitional conditions due to changes in product for flexible operation units. 40 C.F.R. § 63.101.

FINDINGS OF VIOLATIONS

Clean Air Act General Duty Clause Violations

48. Paragraphs 1-46 are incorporated herein.

49. Based on the information available to EPA, EPA has determined that Respondent failed to comply with its general duty, pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), by failing to identify hazards which may result from releases using appropriate hazard assessment techniques, and failing to design and maintain a safe facility, taking such steps as are necessary to prevent releases; and that such failures are violations of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

Clean Water Act Violations

50. Paragraphs 1-46 are incorporated herein.

51. Based on review of information and documentation obtained during the Inspection and other relevant information, the EPA has determined that Respondent violated the conditions and limitations of its Permit, for discharges occurring at Outfall 003. Respondent violated the monthly average, daily maximum and/or 30-day average effluent concentration and mass limitations set forth in the Permit for discharges from Outfall 003 for 5-day Biological Oxygen Demand (“BOD5”), Chemical Oxygen Demand (“COD”), Iron (“Fe”), and Total Suspended Solids (“TSS”) included in Attachment A.

52. Respondent’s violations of the terms and conditions of NPDES Permit No.

IA0052535 are violations of Section 402 of the CWA, 33 U.S.C. § 1342.

ORDER FOR COMPLIANCE

53. Based upon the Findings of Fact and Law, and Findings of Violations 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), and Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), EPA hereby ORDERS, and Respondent hereby AGREES to take, the actions described below.

54. Respondent shall take whatever actions are necessary to correct the violations cited above and comply with the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), in order to prevent any further releases of methanol and sodium methylate solution, and to minimize the consequences of any release that does occur.

55. Compliance Plan for CAA §112(r)(1):

(a) If the extremely hazardous substances methanol and/or SMO are present at the Facility upon the Effective Date of this Order,

- (i) within thirty (30) days of the Effective Date of this Order, Respondent must submit a plan to EPA describing how the facility intends to comply with the obligations of CAA § 112(r)(1). The plan must provide for identification of hazards which may result from releases, using appropriate hazard assessment techniques. It must also describe the measures the Facility has taken or will take to prevent further releases. EPA will review and may provide comments on the plan. Respondent must implement the plan as soon as possible but no later than forty-five (45) days after the Effective Date of this Order.
- (ii) Respondent shall submit a description of actions and a schedule for completion of all corrective measures to be taken as a result of the hazard assessment no later than seventy-five (75) days after the submission of the Plan referenced in Paragraph 55(a)(i) of this Order or thirty (30) days before Startup of the Facility, whichever is sooner. This submission must specifically describe how Respondent plans to alter the design and maintenance of the Facility to be safe, specifically as relates to management of change, as well as sodium methylate solution (SMO) and any incompatible materials. EPA will review and may provide comments on the actions before Startup. The completion of any corrective action shall be done as soon as possible, but no later than sixty (60) days after Startup, unless otherwise approved by EPA.

(b) If the extremely hazardous substances are no longer present at the Facility

within thirty (30) days of the Effective Date of this Order, Respondent does not need to take the actions described in Paragraph 55(a). If, at any time before the Termination Date of this Order described in Paragraph 76, methanol and/or SMO are present at the Facility, Respondent shall submit notification to EPA that the extremely hazardous substance(s) are on site and shall take the actions required by Paragraph 55(a). Deadlines for these actions will be based on the date the EHS is brought onsite rather than the Effective Date of this Order.

56. In accordance with this Order, Respondent shall take all necessary actions to comply with the applicable limitations and conditions of its Permit, NPDES Permit No. IA0052535, including but not limited to the effluent limitation for 5-day BOD, TSS, COD, and iron.

57. By no later than ten (10) days prior to Facility Startup, Respondent shall submit a written interim compliance countermeasure plan that:

- (A) identifies the process the Respondent will implement to analyze the wastewater prior to discharge; and
- (B) describes the actions taken, prior to discharge, that will ensure the permit requirements are met for wastewater discharges.

58. By no later than thirty (30) days after Startup of the Facility, Respondent shall submit a written report that:

- (A) describes the specific actions taken, equipment installed, and/or operational changes made to achieve compliance with the Permit;
- (B) provides a copy of discharge monitoring reports for the facility from signature of the order to the report submission date; and
- (C) identifies any additional actions Respondent believes will be necessary to achieve or maintain compliance, including a schedule for implementing such actions. These actions must be completed within sixty (60) days of Startup of the Facility.

59. The EPA may, after review of the report and description of actions taken submitted by Respondent pursuant to Paragraph 58, provide written comments and suggestions regarding such submittals. Review and comment on Respondent's submissions by the EPA does not relieve Respondent of the responsibility to comply with its Permit, the CWA, applicable State law, or this Order.

60. If Respondent reasonably believes it is not technically able to complete all actions necessary to comply with the requirements of Paragraphs 56 and 57 by the "reporting deadline" in Paragraph 57, Respondent may submit a written request to the EPA by no later than fifteen (15) days prior to the reporting deadline for an extension of time to install such structure(s). The

request must include a description of the specific structure(s) for which the extension is being sought, an explanation of the reason for the delay, and a date certain by which the structure(s) will be completed.

61. Any decision by EPA regarding a request for an extension of time pursuant to Paragraph 60 above, will be made in writing and, if granted, will set forth the new compliance date for the structure(s) in question. The decision by EPA regarding the extension shall not be subject to appeal; however, EPA will not unreasonably withhold approval.

62. After review of the information submitted by Respondent pursuant to the above Paragraphs, EPA may determine that additional information is needed and/or additional corrective measures or deadlines are appropriate, and may modify this Order or initiate a separate enforcement action, as appropriate.

63. Respondent must provide documentation of completion of these compliance actions to EPA as specified in Paragraphs 54-58, above. All documentation shall be submitted as directed below.

Submissions

64. All submissions to EPA required by this Order shall contain the following certification signed by an officer of the 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. (Signature)

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

Diana Chaney, *chaney.diana@epa.gov* and

Seth Draper, *draper.seth@epa.gov*

Enforcement and Compliance Assurance Division
United States Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

66. 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

67. Any violation of this Order may result in a judicial action for an injunction or civil penalties of up to \$102,638 per day per violation, or civil administrative action for penalties of up to \$48,762 per day per violation, or both, as provided in Sections 113(b)(2) and 113(d)(1) of the CAA, 42 U.S.C. §§ 7413(b)(2) and 7413(d)(1) (respectively), as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). Any violation of the CWA provisions of this Order may result in a judicial action for an injunction or civil penalties of up to \$ 56,460 per day per violation, or civil administrative action for penalties of up to \$22,584 per day per violation, or both, as provided in Sections 309(g)(2) and 309(d)(1) of the CWA, 33 U.S.C. §§ 1319(b)(2) and 1319(d)(1) (respectively), as modified by 40 C.F.R. Part 19, as well as criminal sanctions as provided in Section 309(c) of the CWA, 33 U.S.C. § 1319(c). The EPA may use any information submitted under this Order in an administrative, civil, or criminal action.

68. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the CAA or CWA 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 a determination of, any issue related to any federal, state, or local permit.

69. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of its responsibility to obtain any required local, state, and/or federal permits.

70. This Order does not constitute a waiver or a modification of any requirements of the CAA or CWA, all of which remain in full force and effect. EPA retains the right to seek any and all remedies available under Section 309 of the CWA, 33 U.S.C. § 1319, or Section 113 of the CAA, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

71. 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 an imminent and substantial endangerment to the public health, welfare, or the environment.

72. 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 76, 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 New Heaven Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to 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.

73. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the Facility, and/or to request additional information from Respondent pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414 or Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

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

Effective Date

75. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by the EPA. The terms of this Order shall be effective and enforceable against Respondents ten (10) days after the date this Order is signed by EPA.

Termination

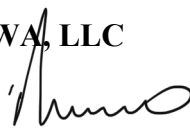
76. With respect to violations of and actions required by the Clean Air Act, this Order shall terminate one year after the Effective Date of this Order, or at the time that EPA determines that Respondent has achieved compliance with all the terms of this Order, whichever is earlier.

Notice to the State

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

RESPONDENT NEW HEAVEN CHEMICALS IOWA, LLC

Date: 03/05/22



RAMESH HARIDAS
Title CED

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

Wendy Lubbe
Acting Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7

Sara Hertz Wu
Senior Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7

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, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

I further certify that on the date noted below, I sent by certified mail, return receipt requested, a true and correct copy of the signed original Order for Compliance, to:

New Heaven Chemicals Iowa LLC
1585 380th Street
Manly, Iowa 50456

And by electronic mail to:

cfbecker@belinmccormick.com

Name

Date

(3915080)