

United States Environmental Protection Agency
Region 5

IN THE MATTER OF:)
)
HUTCHINSON UTILITIES) FINDING OF VIOLATION
COMMISSION)
Hutchinson, Minnesota) EPA-5-00-MN-21
)
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)
_____)

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Hutchinson Utilities Commission (HUC) is violating Section 412 of the Clean Air Act, 42 U.S.C. § 7651. Specifically, HUC is violating the Acid Deposition Control requirements found at 40 C.F.R. Parts 72 and 75 as follows:

Regulatory Authority

1. The Acid Rain Program Regulations apply to any electric generating unit.
2. The Acid Rain Program provisions, at 40 C.F.R. Part 75, require the owner or operator of an affected electric generating facility to monitor and report SO₂, NO_x, CO₂ emissions, volumetric flow and opacity data.

Hutchinson Utilities Commission's Facility

3. The Hutchinson Utilities Commission (HUC) owns and operates an electric generating facility at 225 Michigan Street, Hutchinson, McLeod County, Minnesota (facility). This facility consists of two electric generating units.
4. HUC's facility is subject to the requirements at 40 C.F.R. Part 75. According to 40 C.F.R. Part 72 any electric generating

facility is subject to the Acid Rain program and the monitoring requirements found at 40 C.F.R. Part 75. An exemption is granted to any unit that serves a generator smaller than 25 MW and burns fuel with an average annual sulphur content of 0.05% or less. [40 C.F.R. § 72.7].

5. HUC has two boilers that serve generators of 22 MW and 42MW. Both boilers burn natural gas that has less than 0.05% sulphur content, by weight.

6. HUC has submitted a written request for exemption from the Acid Rain Program for the smaller boiler in accordance with 40 C.F.R. § 72.7(b).

7. The larger unit is not exempt from the Acid Rain Program and meets the definition of "new unit" as found at 40 C.F.R. § 72.2.

8. The facility is in an area on Minnesota that is in unclassified/attainment status for ozone.

9. 40 C.F.R. § 75.4(b) states, in pertinent part, "In accordance with § 75.20, the owner or operator of each new affected unit shall ensure that all monitoring systems required under this part for monitoring SO₂, NO_x, CO₂, opacity and volumetric flow are installed and all certification tests are complete on or before the later of the following dates ...

(1) ... for a gas-fired unit ... not located in an ozone non-attainment area or the ozone transport region, the date for installation and completion of all certification tests for NO_x and CO₂ monitoring systems shall be January 1, 1996; or

(2) Not later than 90 days after the date the unit commences commercial operation...."

10. The 42 MW unit commenced commercial operation on November 3, 1994.

11. 40 C.F.R. § 75.54(a) states, in pertinent part,

"On and after January 1, 1996, and before April 1, 2000, the owner or operator shall meet the requirements of either this

section or § 75.57 ... The owner or operator of any affected source subject to the requirements of this part shall maintain for each affected unit a file of all measurements, data, reports, and other information required by this part at the source in a form suitable for inspection for at least three (3) years from the date of each record. ... The file shall contain the following information:

(1) The data and information required in paragraphs (b) through (g) of this section...;

(2) The supporting data and information used to calculate values required in paragraphs (b) through (f) of this section, excluding the subhourly data points used to compute hourly averages under § 75.10(d)...;

(3) The data and information required in § 75.55 of this part for specific situations, as applicable ...;

(4) The certification test data and information required in § 75.56 for tests required under § 75.20, beginning with the date of the first certification test performed, and the quality assurance and quality control data and information required in § 75.56 for tests and the quality assurance/quality control plan required under § 75.21 and appendix B of this part, beginning with the date of provisional certification;

(5) The current monitoring plan as specified in § 75.53, ...; and

(6) The quality control plan as described in appendix B to this part, beginning with the date of provisional certification."

12. Section 75.54(b) through (g) requires the owner or operator to record among other things, operating parameter records, SO₂ emission records, NO_x emission records, CO₂ emission records, opacity records, and missing data records.

13. 40 C.F.R. § 75.57 states, in pertinent part,

"...On or after April 1, 2000, the owner or operator shall meet the requirements of this section.

(a) *Recordkeeping requirements for affected sources.*
The owner or operator of any affected source subject to the requirements of this part shall maintain for each affected unit a file of all measurements, data, reports, and other information required by this part at the source in a form suitable for inspection for at least three (3) years from the date of each record. Unless otherwise provided ... The file shall contain the following information:

(1) The data and information required in paragraphs (b) through (h) of this section...;

(2) The supporting data and information used to calculate values required in paragraphs (b) through (g) of this section, excluding the subhourly data points used to compute hourly averages under § 75.10(d), ...;

(3) The data and information required in § 75.55 or § 75.58 for specific situations, as applicable, ...;

(4) The certification test data and information required in § 75.56 or § 75.59 for tests required under § 75.20, beginning with the date of the first certification test performed, the quality assurance and quality control data and information required in § 75.56 or § 75.59 for tests, and the quality assurance/quality control plan required under § 75.21 and appendix B to this part...;

(5) The current monitoring plan as specified in § 75.53...; and

(6) The quality control plan as described in appendix B to this part...."

14. Section 75.54(b) through (h) requires the owner or operator to record, among other things, operating parameter records, SO₂ emission records, NO_x emission records, CO₂ emission records, opacity records, diluent record provisions, and missing data records.

15. The facility did not maintain any records on operating parameters, SO₂ emissions, NO_x emissions, CO₂ emissions, and opacity. The facility did not have a monitoring plan or a quality control plan.

16. 40 C.F.R. § 75.61(a) states, in pertinent part,

"The designated representative for an affected unit (or owner operators, as specified) shall submit notice to the Administrator, the appropriate EPA Regional Office and to the applicable State and local air pollution control agencies for the following purposes, as required by this part."

... (2) *New unit, newly affected unit or new flue gas desulfurization system operating notification.*
The designated representative for an affected unit shall submit written notification: For a new unit or a newly affected unit, of the planned date when a new unit or newly affected unit will commence commercial operation

(i) Notification of the planned date shall be submitted not later than 45 days prior to the date the unit commences commercial operation ..."

17. HUC commenced commercial operations on November 3, 1994 without submitting prior notification to the Administrator, the appropriate EPA Regional Office and to the applicable State and local air pollution control agencies.

18. 40 C.F.R. § 75.64 states, in pertinent part,

"The designated representative for an affected unit shall electronically report the data and information in

paragraphs (a), (b), and (c) of this section to the Administrator quarterly, beginning with the data from ... the calendar quarter corresponding to the relevant deadline for initial certification in § 75.4(a), (b), or (c).... Each electronic report must be submitted to the Administrator within 30 days following the end of each calendar quarter."

19. The first quarterly report would have been due April 30, 1994. HUC submitted its first quarterly report the first quarter of 2000.

Violations

20. From February 1, 1995, to present, in violation of 40 C.F.R. § 75.4(b)(2), HUC failed to monitor for SO₂ emissions, opacity and volumetric flow.

21. From January 1, 1996, to present, in violation of 40 C.F.R. § 75.4(b)(1), HUC failed to monitor for NO_x and CO₂ emissions.

22. From January 1, 1996, to March 31, 2000, in violation of 40 C.F.R. § 75.54, HUC failed to keep records on operating parameters, SO₂ emissions, NO_x emissions, CO₂ emissions, and opacity and did not have a monitoring plan or a quality control plan.

23. From April 1, 2000, to present, in violation of 40 C.F.R. § 75.57, HUC failed to keep records on operating parameters, SO₂ emissions, NO_x emissions, CO₂ emissions, opacity and diluent record provisions, and did not have a monitoring plan or a quality control plan.

24. On November 3, 1994, in violation of 40 C.F.R. 75.61(a)(2), HUC commenced commercial operation without proper notification.

25. On April 30, 1994, July 30, 1994, October 30, 1994, January 30, 1995, April 30, 1995, July 30, 1995, October 30, 1995, January 30, 1996, April 30, 1996, July 30, 1996, October 30, 1996, January 30, 1997, April 30, 1997, July 30, 1997, October 30, 1997, January 30, 1998, April 30, 1998, July 30, 1998, October 30, 1998, January 30, 1999, April 30, 1999,

July 30, 1999, October 30, 1999, and January 30, 2000, HUC failed to submit quarterly reports. Each failure to submit each required quarterly report constitutes a violation of 40 C.F.R. § 75.64.

9-29-00

Date



Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

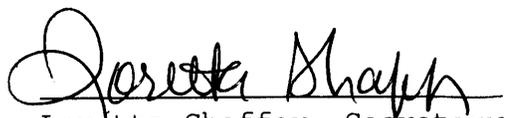
I, Loretta Shaffer, certify that I sent a Finding of Violation,
No. EPA-5-00-MN-21, by Certified Mail, Return Receipt Requested, to:

Clarence L. Kadrmas, P.E., General Manager
Hutchinson Utilities Commission
225 Michigan Street
Hutchinson, Minnesota 55350

I also certify that I sent copies of the Finding of Violation by
first class mail to:

Ann Foss, Enforcement Manager
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, Minnesota 55155-4194

on the 29~~th~~ day of Sept, 2000.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: P140897051