UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

JAN 23 2020

Michael Anderson, Plant Manager
HP Hood LLC
330 North State Street
Concord, NH 03301-3229

Re: Information Request Pursuant to the Clean Air Act

Dear Sir or Madam:

In November of 2019, the U.S. Environmental Protection Agency ("EPA") provided you notice of its plans to begin an enforcement initiative to increase companies' compliance with the "General Duty Clause" of Section 112(r)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(1), in certain states. See "Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems" (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an "Information Request" that requires you to submit certain information to EPA within **fifteen (15) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at HP Hood LLC's facility at 330 North State Street in Concord, NH ("Facility") in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;

2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and

3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-caa-section-112r1-may-2000 and https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports[10] submitted by HP Hood LLC, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on HP Hood LLC's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within fifteen (15) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the

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[10] Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review HP Hood LLC's response to the Information Request. If the response indicates that HP Hood LLC has performed a Process Hazard Review of the refrigeration system, HP Hood LLC's involvement in this initiative will conclude.

If HP Hood LLC's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, HP Hood LLC has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending HP Hood LLC an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require HP Hood LLC to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require HP Hood LLC to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,

James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

HP Hood LLC
330 North State Street
Concord, NH 03301-3229

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
   Yes ___ **No** ___ How many? _____

2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? **Yes** ___ **No** ___

   If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? **Yes** ___ **No** ___

   If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release._____

   _____

   _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
[Title] **HP Hood LLC**

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
HP Hood LLC

and correct response.

Executed on _____ _____
[Date] **[Signature]**

_____
[Name and Title]

_____
[Email address]

_____
[Telephone Number]

February 2019

United States Environmental Protection Agency

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.

EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. *See* https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: https://www.epa.gov/sites/production/files/documents/gendutyclause.rpt.pdf.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#.bookmark3 for more information and to https://www.epa.gov/compliance/epas-edisclosure for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.
For more information about EPCRA reporting, go to: https://www.epa.gov/epcra.