112(r)(7)/Air Enforcement: U.S. Environmental Protection Agency and Portage, Indiana, Water Company Enter into Consent Agreement and Final Order

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The United States Environmental Protection Agency ("EPA") and Indiana- American Water Company, Inc. ("IAWC") entered into an August 16th Consent Agreement and Final Order ("CAFO") addressing alleged violations of the Clean Air Act regulations that implement Section 112(r)(7) of the Clean Air Act. See Docket No. CAA-05-2023-007.

The CAFO provides that IAWC treats and chlorinates water at the Ogden Dunes Water Treatment Plant it owns and operates in Portage, Indiana ("Facility").

The Facility is stated to maintain a maximum inventory of 36,000 pounds of the regulated toxic substance chlorine as liquified compressed gas, as determined under 40 C.F.R. § 68.115. This exceeds the threshold quantity of 2,500 pounds of chlorine as set forth in Table 1 to 40 C.F.R. § 68.130.

The Facility's covered process is stated to consist of the usage, storage, handling, and movement of chlorine from the cylinders, through the chlorine pipes, to the injectors.

The CAFO provides that the Facility's worst-case release assessment conducted under Subpart B of Part 68 and 40 C.F.R. § 68.25 determined that the distance to the toxic endpoint for chorine is greater than the distance to any public receptor. Further, the Facility's covered process is subject to the OSHA Process Safety Management Standard. See 29 C.F.R. § 1910.119.

In addition, the Facility is stated to have a covered process that is subject to requirements of Chemical Accident Prevention Provisions in accordance with 40 C.F.R. § 68.10(a) and the requirements of Program 3 in accordance with 40 C.F.R. § 68.10(i).

EPA is stated to have conducted an announced inspection of the Facility on December 6 and 7, 2021. IAWC provided documents for the inspection related to various aspects of its Program 3 requirements.

The CAFO alleges that IAWC:

- Did not complete a compilation of written process safety information pertaining to the technology of the process and the equipment in the process
- Did not label the contents and flow direction in the chlorine pipe in the chlorinator room
- The process hazardous analysis failed to include:

- factors listed in 40 C.F.R. §§ 68.67(c)(5)-(7),
- the involvement of a team with the appropriate technical background; and
- a system to address, document, and communicate the timely resolution of the team's findings and recommendations.
- Failed to update and revalidate the PHA at least every five years by a team meeting the requirements of 40 C.F.R. § 68.67(d) to assure that the PHA is consistent with the current process.
- Did not provide documentation of the initial PHA to EPA inspectors
- Failed to retain PHAs and updates on revalidations as well as the documented resolution of the required recommendations for the life of the process
- Did not develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with process safety information and address certain specified steps
- Operating procedures were not readily accessible to employees who work or maintain a process at the Facility other than Chlorine Tank Change operating procedures that were posted on the wall of the Chlorine Room
- Did not provide initial training documentation for certain employees
- Did not record that each employee involved in operating a process had received and understood the training required
- Did not provide written procedures to maintain the ongoing integrity of process equipment to EPA inspectors
- Did not provide documentation on training each employee and maintaining an on-going integrity of the process equipment in an overview of that process and its hazards and the procedure applicable to the employee's job task to assure that the employee could perform the job task in a safe manner
- Failed to certify that the two more recent compliance audits had evaluated the Facility's compliance with the provisions of Program 3 Prevention Program at least three years to verify that the procedures and practices developed under the Program 3 Prevention Program were adequate and being followed
- A compliance audit was not conducted by at least one person knowledgeable in the process
- Failed to promptly determine and document an appropriate response to each of the findings of the September 3, 2020, compliance audit and document that deficiencies had been corrected
- Did not consult with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of the process safety management required by CAPP
- Did not provide to employees and their representatives access to process hazard analyses and to all other information required to be developed under CAPP
- Did not conduct any emergency response coordination activity for the Facility
- Failed to coordinate response needs and document coordination with local emergency planning and response organization at least annually

A civil penalty of $146,474 is assessed.

A copy of the CAFO can be downloaded here.