

# 112(r)(7)/Air Enforcement: U.S. Environmental Protection Agency and Utica, New York, Brewing Facility Enter into Consent Agreement



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The United States Environmental Protection Agency (“EPA”) and Matt Brewing, Co., Inc. (“MBCI”) entered into a September 21st Consent Agreement and Final Order (“CAFO”) addressing alleged violations of the regulations implementing Section 112(r)(7) of the Clean Air Act. See Docket No. CAA-02-2021-1208.

The CAFO provides that MBCI is the owner and/or operator of a facility (“Facility”) in Utica, New York, that utilizes anhydrous ammonia as a refrigerant in its brewing operations.

Section 112(r)(7) of the Clean Air Act provides EPA the authority to promulgate release prevention, detection, and corrective requirements regarding regulated substances in order to prevent accidental releases of regulated substances. Such regulations were promulgated in 40 C.F.R. Part 68. They include the requirements for risk management programs that must be established and implemented at certain stationary sources.

EPA is stated to have conducted an inspection of the MBCI Facility on November 15, 2016. The purpose of the inspection was stated to include determining compliance with Section 112(r)(7) of the Clean Air Act and the regulations at 40 C.F.R. Part 68.

MBCI is stated to have filed a Risk Management Plan (“RMP”) for the Facility with EPA. The RMP is stated to have encompassed a covered anhydrous ammonia process (a Program 3 process) that specified a quantity of 22,000 pounds of anhydrous ammonia for the process.

An updated RMP for the Facility was filed with EPA on October 21, 2020.

The CAFO alleges the following violations were identified at the time of the inspection:

1. Respondent failed to fully comply with the process safety information requirements of 40 C.F.R. §§ 68.65(c) and (d);
2. Respondent failed to fully comply with the process hazard analysis requirements of 40 C.F.R. §§ 68.67(c) and (e);
3. Respondent failed to fully comply with the operating procedures requirements of 40 C.F.R. § 68.69(a);
4. Respondent failed to fully comply with the training requirements of 40 C.F.R. §§ 68.71(a)-(c);

5. Respondent failed to fully comply with the mechanical integrity requirements of 40 C.F.R. §§ 68.73(b) and (d); and -4-
6. Respondent failed to fully comply with the contractor safety requirements of 40 C.F.R. §§ 68.87(b)

MBCI is stated to neither admit nor deny the CAFO conclusions of law.

A civil penalty of \$88,400 is assessed.

A copy of the CAFO can be downloaded [here](#).