



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAY 24 2011

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Grant Kleinhenz
City Manager
Centralia City Hall
222 South Poplar Street
Centralia, Illinois 62801

Re: City of Centralia, Centralia, Illinois, Consent Agreement and Final Order
Docket No. **CAA-05-2011-0040**

Dear Mr. Kleinhenz:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U. S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on MAY 24 2011. Please pay the civil penalty in the amount of \$ 25,000 in the manner prescribed in paragraphs 42-44 and reference your check with the number BD 2751160A036 and the docket number CAA-05-2011-0040

Please feel free to contact Silvia Palomo at (312)353-2172 if you have any questions regarding the enclosed documents. Please direct any legal questions to Kasey Barton at (312)886-7163. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink that reads "Bob Mayhugh".

Bob Mayhugh, Acting Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
The City of Centralia)
Water and Wastewater Treatment Plant)
Centralia, Illinois)
)
EPA ID: 1000 0008 4776)
)
Respondent.)
_____)

Docket No. CAA-05-2011-0040
Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)

RECEIVED
MAY 24 2011

Consent Agreement and Final Order

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is the City of Centralia, a municipality in the State of Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. In accordance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), on June 20, 1996, EPA promulgated regulations to prevent accidental releases of regulated substances and minimize the consequences of those releases that do occur. These regulations, known as the Risk Management Program regulations, are codified at 40 C.F.R. Part 68.

10. The Risk Management Program regulations apply to all stationary sources that have more than a threshold quantity of a regulated substance in a process. 40 C.F.R. § 68.10. The List of Regulated Toxic Substances and Threshold Quantities for Accidental Release Prevention is codified at 40 C.F.R. § 68.130. Procedures to determine whether a threshold quantity of a regulated substance is present at a stationary source are codified at 40 C.F.R. § 68.115.

11. Chlorine is a "regulated substance," as that term is defined in Section 112(r)(3) of the CAA and 40 C.F.R. § 68.3. See 40 C.F.R. § 68.130, Table 1.

12. The "threshold quantity," (as that term is defined in 40 C.F.R. § 68.3) for chlorine is 2,500 lbs. 40 C.F.R. § 68.130, Table 1.

13. "Process" means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances or combination of

these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated pollutant could be involved in a potential release, shall be considered a single process. 40 C.F.R. § 68.3.

14. "Covered process" means a process that has a regulated substance present in more than a threshold quantity as determined in 40 C.F.R. § 68.115. 40 C.F.R. § 68.3.

15. "Owner or operator" shall mean any person who owns, leases, operates, controls, or supervises a stationary source. 42 U.S.C. § 7412(a)(9).

16. "Stationary source" shall mean 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. 42 U.S.C. § 7412(r)(2)(C); 40 C.F.R. § 68.3.

17. An owner or operator of a stationary source, subject to the Risk Management Program regulations, shall comply with the requirements of 40 C.F.R. Part 68 by no later than the latest of the following dates: June 21, 1999; three years after the date on which the regulated substance is first listed under 40 C.F.R. § 68.130; or the date on which a regulated substance is first present in more than a threshold quantity in a process. 40 C.F.R. §§ 68.10 and 68.150.

18. The Risk Management Program regulations at 40 C.F.R. § 68.12(a) require that the owner or operator of a stationary source subject to the regulations submit a single Risk Management Plan ("RMP"), as provided in 40 C.F.R. §§ 68.150-68.185 for preventing accidental releases to the air and minimizing the consequences of releases that do occur. The RMP shall include a registration that reflects all covered processes. 40 C.F.R. § 68.150(a).

19. Under 40 C.F.R. § 68.12, all subject processes are divided into three tiers of eligibility: Programs 1; 2; and 3. Each Program establishes a certain set of requirements for a covered process, depending upon the process's eligibility.

20. Program 2 is set forth at 40 C.F.R. § 68.10(c) and applies to all processes which do not meet the requirements of Program 1 eligibility, as set forth at 40 C.F.R. §68.10(b), and do not meet the requirements of Program 3 eligibility, as set forth at 40 C.F.R. §68.10(d).

21. The owner or operator of a stationary source with a process subject to Program 2 requirements shall develop and implement a management system as provided under 40 C.F.R. § 68.15. 40 C.F.R. § 68.12(c)(1).

22. The owner or operator of a stationary source with a process subject to Program 2 requirements shall conduct a hazard assessment as provided under 40 C.F.R. Part 68, Subpart B, §§ 68.20 through 68.42. 40 C.F.R. § 68.12(c)(2).

23. The owner or operator of a stationary source with a process subject to Program 2 requirements shall implement the Program 2 prevention steps set forth in 40 C.F.R. Subpart C §§ 68.48 through 68.60, or the Program 3 prevention steps set forth in 40 C.F.R. Subpart D §§ 68.65 through 68.87. 40 C.F.R. § 68.12(c)(3).

24. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), authorizes the Administrator to assess a civil penalty of up to \$25,000 per day of violation up to a total of \$200,000 for each violation of Section 112(r) of the CAA. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$32,500 per day of violation up to a total of \$270,000 for each violation of Section 112(r) of the CAA that occurred from March 15, 2004 through January 12, 2009, and to

\$37,500 per day violation up to a total of \$295,000 for each violation of Section 112(r) of the CAA that occurred after January 12, 2009.

25. Section 113(d)(1) limits the Administrator's administrative enforcement authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

26. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

27. Respondent owns and operates the Centralia Water and Wastewater Treatment Plant located at 2219 Old 51 Road, Centralia, Illinois 62801 ("the Facility").

28. At the Facility, Respondent uses chlorine to disinfect the drinking water supply for the City of Centralia.

29. Respondent is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

30. The Facility is a "stationary source," as that term is defined in Section 112(r)(2)(C), 42 U.S.C. § 7412(r)(2)(C), and in 40 C.F.R. § 68.3.

31. For purposes of the requirements of Section 112(r) and its implementing regulations at 40 C.F.R. Part 68, Respondent is the "owner or operator" of the Facility, as that term is defined in Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9).

32. On June 18, 2004, Respondent submitted a Risk Management Plan (RMP) to U.S. EPA for the storage and handling of chlorine at the Facility, as required under Section 112(r) of the CAA, 42 U.S.C. § 7412, and its implementing regulations at 40 C.F.R. Part 68.

33. The RMP submitted to U.S. EPA by Respondent includes the following information:

- a. Respondent stores and handles 10,000 lbs. of chlorine at the Facility;
- b. The chlorine is stored in five one-ton cylinders; and
- c. The five chlorine cylinders at the Facility constitute a single “process” subject to the Risk Management Program regulations at 40 C.F.R. Part 68.

34. On June 23, 2009, a representative from U.S. EPA conducted an inspection at the Facility under the authority of Section 114(a) of the CAA, 42 U.S.C. § 7414(a), to determine whether Respondent was complying with Section 112(r) of the CAA and its implementing regulations at 40 C.F.R. Part 68.

35. Respondent stores and handles more than the threshold quantity of 2,500 lbs of chlorine at the Facility.

36. Respondent’s chlorine cylinders constitute a “single” process and a “covered process” as those terms are defined in 40 C.F.R. § 68.3.

37. In its RMP, Respondent failed to submit a correction of the emergency contact information within a month to the reporting center as required under 40 C.F.R. §68.195(b).

38. For purposes of compliance with 40 C.F.R. Part 68, Respondent acknowledged in its RMP that is required to meet the Program 2 requirements under 40 C.F.R. Part 68.

39. Respondent is subject to the Program 2 requirements at 40 C.F.R. Part 68 for its chlorine process because: (1) the distance to a toxic or flammable endpoint for a worst-case

release assessment is greater than the distance to any public receptor; and (2) the process is not in one of the listed NAICS codes at 40 C.F.R. § 6810(d)(1); and (3) the OSHA process safety management standard at 29 C.F.R. § 1910.119 is not applicable. 40 C.F.R. § 68.10.

40. Based on the inspection conducted by U.S. EPA, Respondent failed to comply with the following Program 2 requirements for its chlorine process:

i. Respondent failed to adequately conduct a hazard review by June 21, 1999, and to update the hazard review every five years, as required under 40 C.F.R. § 68.50;

ii. Respondent failed to adequately address in its operating procedures the following: emergency shutdown and operations; startup following a normal or emergency shutdown or a major change that requires a hazard review; and equipment inspection procedures as required under 40 C.F.R. § 68.52(b)(4), (6), and (8);

iii. Respondent failed to provide refresher training at least every three years, and more often if necessary, to each employee operating the process to ensure that the employee understands and adheres to the current operating procedures of the process, as required under 40 C.F.R. § 68.54(b);

iv. Respondent failed to adequately prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment as required under 40 C.F.R. § 68.56(a);

v. Respondent failed to perform or cause to be performed inspections and tests on the process equipment, including the following: chlorine cylinders, sensors, connecting tubing and regulators as required under 40 C.F.R. § 68.56(d); and

iv. Respondent failed to conduct compliance audits as required under 40 C.F.R. § 68.58.

Civil Penalties

41. In consideration of Respondent's cooperation, willingness to quickly resolve this matter and other matters as justice may require, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$25,000.00.

42. Respondent must pay the \$25,000.00 civil penalty in six installments with interest as follows:

<u>Installment</u>	<u>Due by</u>	<u>Principal</u>	<u>Interest (1%)</u>	<u>MonthlyPayment</u>
Payment #1	within 30 days of effective date of CAFO	\$4158.00	\$20.83	\$4178.83
Payment #2	within 60 days of effective date of CAFO	\$4161.46	\$17.37	\$4178.83
Payment #3	within 90 days of effective date of CAFO	\$4164.93	\$13.90	\$4178.83
Payment #4	within 120 days of effective date of CAFO	\$4168.40	\$10.43	\$4178.83
Payment #5	within 150 days of effective date of CAFO	\$4171.87	\$6.96	\$4178.83
Payment #6	within 180 days of effective date of CAFO	\$4175.34*	\$3.48	\$4178.82

*The final payment has been adjusted to account for payments having been rounded to the nearest cent.

43. Respondent must pay the installments by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check must note "City of Centralia – Water and Wastewater Treatment Plant", the docket number of this CAFO and the billing document number.

44. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany each payment. Respondent must send a copy of each check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Silvia Palomo, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Kasey Barton, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

45. This civil penalty is not deductible for federal tax purposes.

46. If Respondent does not timely pay any installment payment as set forth in paragraph 42, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 47, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

47. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 dollar handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

48. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

49. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

50. Respondent certifies that it is complying fully with 40 C.F.R. Part 68.

51. This CAFO does not affect Respondent's responsibility to comply with the CAA, and other applicable federal, state and local laws, and regulations.

52. This CAFO is a "final order" for purposes of U.S. EPA's Combined Enforcement Policy for CAA Section 112(r) Risk Management Program.

53. The terms of this CAFO bind Respondent and its successors, and assigns.

54. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

55. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

56. This CAFO constitutes the entire agreement between the parties.

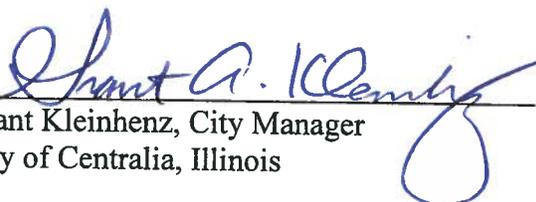
In the Matter of:
City of Centralia, Illinois
Docket Nos. _____

City of Centralia, Illinois, Respondent

Date

4/25/2011

Grant Kleinhenz, City Manager
City of Centralia, Illinois



U.S. Environmental Protection Agency, Complainant

Date

5-17-11

Richard C. Karl, Director
Superfund Division



In the Matter of:
City of Centralia, Illinois
Docket Nos. _____

CAA-05-2011-0040

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

5-19-11

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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MAY 24 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:
City of Centralia, Illinois
Docket Nos. _____

CAA-05-2011-0040

Certificate of Service

I, Silvia Palomo, certify that I hand delivered the original of the Consent Agreement and Final Order, to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing them in the custody of the United States Postal Service addressed as follows:

Grant Kleinhenz
City Manager
Centralia City Hall
222 S. Poplar
Centralia, Illinois 62801

RECEIVED
MAY 24 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

on the 24 day of May, 2011

Silvia Palomo
Silvia Palomo
U.S. Environmental Protection Agency
Region 5