



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2016 MAY 10 PM 12:36

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2016-0015

This ESA is issued to: Frenchman Valley Cooperative

At: 100 Douglas Street, Imperial, Nebraska 69033

for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and Frenchman Valley Cooperative (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of the EPA, is the Director of the Air and Waste Management Division. The Respondent is Frenchman Valley Cooperative, 100 Douglas Street, Imperial, Nebraska 69033.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in EPA's policy entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provision, 40 C.F.R. Part 68," dated January 5, 2004, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On August 14, 2015, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 100 Douglas Street, Imperial, Nebraska, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings (RMP Findings), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the

entire record, the parties enter into the ESA in order to settle the violations, described in the enclosed RMP Findings, for the total penalty amount of **\$4,500**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the RMP Findings, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$4,500** in payment of the full penalty amount to the following address:

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

The Docket Number of this ESA is CAA-07-2016-0015, and must be included on the check.

This original ESA, a copy of the completed RMP Findings, and a copy of the check must be sent by certified mail to:

Christine Hoard
Chemical Risk Information Branch
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Upon Respondent's submission of the signed original ESA, the EPA will take no further civil action against Respondent for the alleged violations of the CAA referenced in the RMP

Findings. The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the RMP Findings.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:


Richard Murphy

Date: 4/28/16

Name (print): RICHARD MURPHY

Title (print): SAFETY DIRECTOR
Frenchman Valley Cooperative

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 5/4/14



Erin Weekley
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 5/5/16

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borromeo

Date: 5-10-16

Karina Borromeo
Regional Judicial Officer

Risk Management Program Inspection Findings
CAA § 112(r) Violations

Frenchman Valley Coop
100 Douglas Street
Imperial, Nebraska 69033
Docket No. CAA-07-2016-0015

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Risk Management Plan
Registration [68.160(b)(7)]

No penalty assessed

The owner or operator failed to accurately report for each covered process, the maximum quantity of each regulated substance or mixture in the process.

How was this addressed: WE NO LONGER RECEIVE AMMONIUM ANIMONIA BY RAILCAR. RE-CALCULATED INVENTORY WHICH IS NOW 1,200,000 POUNDS. 3/30/16. MADE CORRECTION ON RMP SUBMIT ON 4/19/16.

Emergency Response Program [68.180]

No penalty assessed

The owner or operator failed to submit an RMP that correctly included the information required regarding the emergency response program. (Section 9)

How was this addressed: WE DO NOT HAVE AN EMERGENCY RESPONSE PLAN. WE HAVE AN EMERGENCY ACTION PLAN. CORRECTION MADE TO RMP SUBMIT ON 4/22/16

Hazard Assessment

Defining offsite impacts – Population [68.30(a)]

No penalty assessed

The owner or operator failed to estimate in the RMP the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in §68.22(a).

How was this addressed: CORRECTED OUR COORDINATES + POPULATION AND CORRECTED OUR WORST CASE + ALTERNATE SCENARIOS. 3/28/16. CORRECTION TO RMP SUBMIT ON 4/19/16.

Hazard Assessment

Documentation [68.36(a)]

\$1,200

The owner or operator failed to review and update the off-site consequence analyses at least once every five years.

How was this addressed: REVIEWED & REVISED OUR OFF-SITE CONSEQUENCES ON 3/28/16. CORRECTION TO RMP SUBMIT ON 4/17/16.

Prevention Program

Safety Information [68.48(b)]

\$1,500

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted and good engineering practices.

How was this addressed: CREATED A HAZARD REVIEW GUIDANCE DOCUMENT TO ENSURE WE MEET 68.48(b) REGULATIONS ON 2/15/16. THE 5 VESSELS THAT DID NOT MEET THE 1/3 CIRCUMFERENCE FOR SADDLES. WE HAD AN ENGINEER DRAW UP THE SPEC'S TO MEET CODE. A CONTRACTOR INSTALLED THE SADDLE EXTENSIONS, PROJECT WAS COMPLETED ON 4/28/16

Prevention Program

Hazard Review [68.50(b)]

\$600

The owner or operator shall determine by inspecting all equipment that the process is designed, fabricated, and operated in accordance with applicable standards or rules, if designed to meet industry standards or Federal or state design rules, and document the results of the review.

How was this addressed: REVIEWED AND REVISED HAZARD REVIEW GUIDELINES ON 2/15/16. REVIEWED & REVISED HAZARD REVIEW CHECKLIST ON 2/15/16. CREATED A HAZARD REVIEW DOCUMENTATION SIGN OFF SHEET ON 2/15/16.

Prevention Program

Compliance Audits [68.58 (a)]

\$1,200

The owner or operator failed to certify it has evaluated compliance with the provisions of this subpart at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed.

How was this addressed: CONDUCTED A COMPLIANCE AUDIT ON 3/30/16. NOW USING THE REVISED COMPLIANCE AUDIT FROM 9/30/2013

Total Unadjusted Penalty

\$4,500

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and the row for >10 times the threshold quantity of 10,000 pounds of anhydrous ammonia as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 1.0. Therefore, the multiplier for Frenchman Valley Coop = 1.0

***No adjusted penalty since multiplier is 1*

Total Penalty

\$4,500

This section must be also completed and signed by **Frenchman Valley Coop:**

The approximate cost to correct the above items: \$ 19,000

Compliance staff name: RICHARD MURPHY

Signed: Richard Murphy Date: 4/28/26

IN THE MATTER Of Frenchman Valley Cooperative, Respondent
Docket No. CAA-07-2016-0015

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Complainant:

hoard.christine@epa.gov

Copy by First Class Mail to Respondent:

Richard Murphy
Safety Director
100 Douglas Street
Imperial, Nebraska 69033

Dated: 5/10/16



Kathy Robinson
Hearing Clerk, Region 7

