

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

**ESA NO: EPA-5-24-CAA-ESA-01****Docket No: CAA-05-2024-0002****This ESA is issued to:** Farmers Cooperative Association – Kiester, Minnesota**at:** 2474 State Highway 22, Kiester, Minnesota**for violations of Section 112(r)(7) of the Clean Air Act.**

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**EXPEDITED SETTLEMENT AGREEMENT**

Region 5 of the United States Environmental Protection Agency (EPA or Complainant), and Farmers Cooperative Association of Kiester, Minnesota, (Respondent), agree to the settlement of this action before the filing of a Complaint. EPA and Respondent (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. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement (ESA) and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Enforcement & Compliance Assurance Division, Region 5, EPA, has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The Regional Administrator, Region 5, EPA, is authorized by Sections 113(a)(3) and (d)(1) of the CAA, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements to the Regional Judicial Officer, Office of Regional Counsel, Region 5, EPA, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3).

**ALLEGED VIOLATIONS**

The due date for Respondent's updated Risk Management Plan (RMP) was May 10, 2023, pursuant to 40 C.F.R. § 68.190. However, Respondent failed to submit its updated RMP by that date. On June 5, 2023, EPA sent a letter to Respondent regarding its facility located at 2474 State Highway 22, Kiester, Minnesota, (the Facility), to determine its compliance with the Chemical Accident Prevention Provisions (CAPP) promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and set forth at 40 C.F.R. Part 68. The letter served to notify Respondent and its Facility that its updated RMP was overdue. On July 25, 2023, Respondent submitted an updated RMP for the Facility. EPA determined that Respondent had failed to revise, update, and submit timely (within five years of the date of its last submission) its RMP in violation of 40 C.F.R. § 68.190(b)(1).

## **SETTLEMENT**

In consideration of Respondent's size of business, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$2,000.00**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the CAA, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it corrected the violations set forth in this ESA, and paid the **\$2,000.00** penalty by either of the two following methods:

**Payment Method 1 – Preferred (Electronic):** Paid online through the Department of the Treasury using [WWW.PAY.GOV](http://WWW.PAY.GOV). In the Search Public Form field, entered "SFO 1.1", clicked "EPA Miscellaneous Payments - Cincinnati Finance Center," and completed the SFO Form Number 1.1. The payment identified in the online system with the ESA Number listed below.

On the same day, after submitting your payment, sent an email to [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov) and the EPA contact email address noted below. Included in the subject line: "Payment Confirmation for Farmers Cooperative Association, ESA Number EPA-5-24-CAA-ESA-01." Attached a copy of the ESA and your payment receipt to the email.

**Payment Method 2 - (Check):** Mailed, via CERTIFIED MAIL or private carrier, a certified check payable to the United States of America marked with "Farmers Cooperative Association – Kiester Minnesota," and the ESA Number listed below, with a copy of the ESA to:

U. S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Attn: ESA Number EPA-5-24-CAA-ESA-01

On the same day, notice of payment was sent by email to:

Erin DuMontelle  
Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency  
[DuMontelle.Erin@epa.gov](mailto:DuMontelle.Erin@epa.gov);

Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[r5airenforcement@epa.gov](mailto:r5airenforcement@epa.gov); and,

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability will be resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the CAA or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the CAA, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA with proof of payment is not returned to the Region 5 EPA office at the above emails in correct form by Respondent within 30 days of the date of Respondent's receipt of this ESA (60 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 in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

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


FOR RESPONDENT:

Signature: Lonnie Burkow Date: 11/10/23

Name (Print): Lonnie Burkow  
Title (Print): Location Manager  
Tax Identification Number: 42-1020586  
Respondent: Farmers Cooperative Association

**FOR COMPLAINANT:**

**MICHAEL  
HARRIS**

 Digitally signed by MICHAEL  
HARRIS  
Date: 2023.12.08 15:01:34  
-06'00'

Michael D. Harris, Director  
Enforcement and Compliance Assurance Division

Expedited Settlement Agreement  
In the Matter of: Farmers Cooperative Association  
Docket No. CAA-05-2024-0002

**FINAL ORDER**

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**IT IS SO ORDERED.**

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Ann L. Coyle  
Regional Judicial Officer