



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

AUG 24 2011

REPLY TO THE ATTENTION OF:

SC-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Michael C. Wetzel  
Environmental Services Superintendent  
City of Kalamazoo Department of Public Services  
1415 N. Harrison Street  
Kalamazoo, Michigan 49007-2565

RE: Complaint and Expedited Settlement Agreement

ESA Docket No. RMP-11-ESA-020

Docket No. **CAA-05-2011-0050**

**BA# 2751103A049**

Dear Mr. Wetzel:

Enclosed please find a copy of the fully executed Risk Management Program Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or [Chrzaszcz.monika@epa.gov](mailto:Chrzaszcz.monika@epa.gov), if you have any questions regarding the enclosed document or if you have any other question about the program. 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**

77 WEST JACKSON BOULEVARD  
CHICAGO, ILLINOIS 60604-3590

CAA-05-2011-0050

**DOCKET NO: RMP-11-ESA-020**

**This ESA is issued to: City of Kalamazoo**

**at: Water Station #1, 215 Stockbridge Avenue, Kalamazoo, Michigan 49001**

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

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**EXPEDITED SETTLEMENT AGREEMENT**

The United States Environmental Protection Agency, Region 5, and the City of Kalamazoo ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed 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 ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

**ALLEGED VIOLATIONS**

On August 28, 2008, an authorized EPA representative conducted a compliance inspection ("August 28, 2008 Inspection") of the City of Kalamazoo's Water Station #1 located at 215 Stockbridge Avenue, Kalamazoo, Michigan ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the August 28, 2008 Inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.65(c)(1)(iii)-Respondent failed to compile written process safety information for the Facility pertaining to the technology of the processes that included information on the maximum intended inventory;

2. 40 C.F.R. § 68.67(e)-Respondent failed to establish a system to promptly address the findings and recommendations from the process hazard analysis it performed for the Facility; assure that the recommendations were resolved in a timely manner and that the resolution was documented; document what actions were to be taken; complete actions as soon as possible; develop a written schedule of when these actions were to be completed; and communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions;

3. 40 C.F.R. § 68.69(c)-Respondent failed to annually certify that operating procedures at the Facility were current and accurate;

4. 40 C.F.R. § 68.71(c)-Respondent failed to ascertain that each employee involved in operating a process at the Facility had received and understood the training required by 40 C.F.R. § 68.71, and failed to prepare a record for each employee which contained the identity of the employee, the training date, and the means Respondent used to verify that the employee understood the training;

5. 40 C.F.R. § 68.73(d)(3)-Respondent failed to perform inspections and testing of valves at the Facility at a frequency consistent with the applicable manufacturers' recommendations and good engineering practices; and

6. 40 C.F.R. § 68.79(d)-Respondent failed to promptly document an appropriate response to each of the findings of the compliance audit, and failed to document that all deficiencies were corrected.

## **SETTLEMENT**

In consideration of the municipal budget of Respondent, 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 **\$2,550.00**.

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 Act, 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 Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$2,550.00** in payment of the full penalty amount to the following address:

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

**The Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-11-ESA-020.)

**This signed original ESA and a copy of the check must be sent by certified mail to:**

Monika Chrzaszcz  
Chemical Emergency  
Preparedness and Prevention Section (SC-5J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is 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 Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (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 in this ESA.

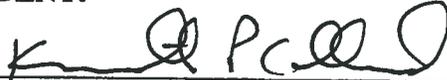
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This ESA is binding on the Parties signing below.

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:   
Name (print): KENNETH P. COWARD  
Title (print): CITY MANAGER  
City of Kalamazoo

Date: August 3, 2011

**FOR COMPLAINANT:**

  
for Richard C. Karl, Director  
Superfund Division

Date: 8/17/11

CAA-05-2011-0050

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2011 AUG 24 PM 3:13

**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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Susan Hedman  
Regional Administrator

Date: 8-20-11