



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

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HEARINGS CLERK
--REGION 10

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2016-0056
This ESA is issued to: CHS Inc.
2374 Shortcut Road
Nez Perce, Idaho 83543

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On October 14, 2014, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, 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 Summary for the total penalty amount of **\$12,000**.

This settlement is subject to the following terms and conditions:

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 Summary, 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 Act, 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 Respondent has corrected the violations listed in the enclosed Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$12,000 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, MO 63197-9000



The docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

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

Javier Morales, 112(r) Enforcement Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101
Seattle, Washington 98101

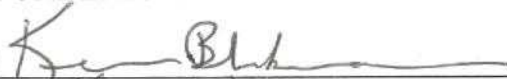
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA at the above address by 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 Summary.

This ESA is binding on the parties signing below.

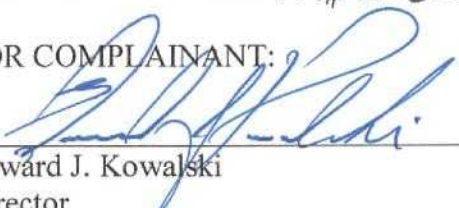
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: 
Name (print): Ken Blakeman
Title (print): General Manager
Cost to correct violation(s): \$2500

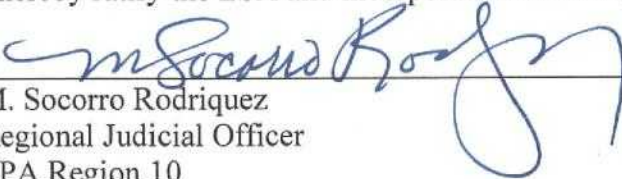
Date: 3/4/16

FOR COMPLAINANT:


Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 3/31/2016

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


M. Socorro Rodriguez
Regional Judicial Officer
EPA Region 10

Date: March 31, 2016



U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME CHS, Inc. Nez Perce		<input checked="" type="checkbox"/> PRIVATE	<input type="checkbox"/> GOVERNMENTAL/MUNICIPAL
FACILITY LOCATION 2374 Shortcut Road, Nez Perce, Idaho 83523		# EMPLOYEES <u>8</u>	POPULATION SERVED: _____
MAILING ADDRESS 5500 Cenex Drive, MS 305, Inver Grove Heights, Minnesota 55164		INSPECTION START DATE AND TIME: August , 11 2015, 09:30 AM	
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER Peter Mutschler, Environment & Safety Manager		INSPECTION END DATE AND TIME: August 11, 2015, 12:00 PM	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S) Nick Broemeling, Safety Manager, 208-743-8551 Ext. 125, Cell: 509 254-1686 Ron Hamilton, Facility Manager, 208-937-2435		EPA FACILITY ID# 1000 0007 0308	
		INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Terry Garcia, SEE Grantee, RMP Lead Inspector, 206-552-1761 Bob Hales, SEE Grantee, RMP Inspector, 206-553-4090 Peter Phillips, SEE Grantee, RMP Inspector, 206-553-1757	
		INSPECTOR SIGNATURE <i>[Signature]</i>	DATE 3/24/16

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: <u>06/21/1999</u>	DATE OF LATEST RMP UPDATE: <u>06/09/2014</u>	
1) PROCESS/NAICS CODE: <u>325311</u>	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>	
REGULATED SUBSTANCE: <u>Ammonia (anhydrous)</u>	MAX. QUANTITY IN PROCESS: <u>183,910 (lbs)</u>	
2) PROCESS/NAICS CODE: <u>42491</u>	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input type="checkbox"/>	
REGULATED SUBSTANCE: <u>Ammonia (conc 20% or greater)</u>	MAX. QUANTITY IN PROCESS: <u>308,080 (lbs)</u>	

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

Three EPA representatives inspected the CHS Inc, Nez Perce facility on August 11, 2015. Based upon this inspection the CHS Inc., Nez Perce Plant is in violation of the following risk management program elements:

- Process Safety Information [68.65]:** CHS Inc. did not provide adequate information pertaining to the equipment in the process included in the piping and instrument diagrams (P&ID's) as required by 40 C.F.R. § 68.65(d)(1)(ii). On December 11, 2015 CHS Inc. provided a process diagram (no date) for the ammonia storage and aqua ammonia converter process identifying some of the process equipment by number. On January 29, 2016, CHS Inc. provided another revised process diagram (no date) that properly identified the emergency valve for the emergency shutoff of the ammonia storage process.
- Process Safety Information [68.65]:** CHS Inc. did not provide information pertaining to the relief system design and design basis of the equipment in the process as required by 40 C.F.R. § 68.65(d)(1)(iv). CHS Inc. was unable to produce the relief system design and design basis for the pressure relief valves located on the ammonia pressure vessels.
- Program Process Hazard Analysis [68.67]:** CHS Inc. has not established a system to promptly address the team's findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be taken; completed actions as soon as possible; developed a written schedule of when these actions are to be completed; and communicated the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations as required by 40 C.F.R. § 68.67(e). CHS Inc. did not document a written schedule with assigned due dates, who is responsible in resolving the findings/recommendations and completion action item dates for their 2013 and 2015 PHA.
- Mechanical Integrity [68.73]:** CHS Inc. has not followed recognized and generally accepted good engineering practices for inspections and testing procedures as required by 40 C.F.R. § 68.73(d)(2). CHS Inc., Nez Perce facility was unable to produce documentation identifying the industry standard being followed for the inspection and testing of the underground pipe for the aqua ammonia converter/storage process. The American Petroleum Institute (API) 570, Piping Inspection Code: Inspection, Repair, Alteration, Rerating of In-service Piping Systems, identifies the inspection and testing methods for buried piping.

5. **Mechanical Integrity [68.73]:** CHS Inc. has not ensured the frequency of inspections and tests of process equipment is consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience as required by 40 C.F.R. § 68.73(d)(3). CHS Inc., Nez Perce facility was unable to produce documentation on the frequency of inspections and testing following manufacturer's recommendations and good engineering practices on the buried pipe for the aqua ammonia converter/storage process.
6. **Management of Change [68.75]:** CHS Inc., did not implement written procedures to manage changes to process chemicals, technology, equipment, and procedures and changes to stationary sources that affect a covered process meeting the requirements of 40 C.F.R. § 68.75(b) as required by 40 C.F.R. § 68.75(a). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update documentation.
7. **Management of Change [68.75]:** CHS Inc., did not document that employees, involved in operating a process and maintenance, and contract employees, whose job tasks would be affected by a change in the process, were not informed of, and trained in, the change prior to start-up of the process or affected parts of the process as required by 40 C.F.R. § 68.75(c). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to inform and train the employees affected by the change.
8. **Management of Change [68.75]:** CHS Inc., did not update process safety information resulting from the change in the ammonia storage process as required by 40 C.F.R. § 68.75(d). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update the process safety information such as the P&ID.
9. **Management of Change [68.75]:** CHS Inc., did not update operating procedures or practices resulting from the change in the ammonia storage process as required by 40 C.F.R. § 68.75(e). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was signed and backdated March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update the operating procedures.
10. **Pre-startup Safety Review [68.77]:** CHS Inc., did not perform a pre-startup safety review for a modified stationary source when the modification is significant enough to require a change in the process safety information as required by 40 C.F.R. § 68.77(a). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update documentation. A Pre-Startup Safety Review Form for MOC#1 dated March 4, 2013 was signed and backdated March 4-8, 2013 on January 28, 2016, three years after the work was completed on March 2013.
11. **Pre-startup Safety Review [68.77]:** CHS Inc., did not confirm that the safety, operating, maintenance, and emergency procedures were in place and were adequate prior to introduction of the regulated substance to the ammonia storage process as required by 40 C.F.R. § 68.77(b)(2). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update documentation. A Pre-Startup Safety Review Form for MOC#1 dated March 4, 2013 was signed and backdated March 4-8, 2013 on January 28, 2016, three years after the work was completed on March 2013.
12. **Pre-startup Safety Review [68.77]:** CHS Inc., did not confirm that the modified stationary source met the requirements contained in management of change prior to introduction of the regulated substance to the ammonia storage process as required by 40 C.F.R. § 68.77(b)(3). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update documentation. A Pre-Startup Safety Review Form for MOC#1 dated March 4, 2013 was signed and backdated March 4-8, 2013 on January 28, 2016, three years after the work was completed on March 2013.
13. **Pre-startup Safety Review [68.77]:** CHS Inc., did not ensure that the training of each employee involved in operating the ammonia storage process was completed as required by 40 C.F.R. § 68.77(b)(4). On January 29, 2016, CHS Inc. provided an MOC Form, MOC#1 that was retroactively signed March 4, 2013 on January 28, 2016 for work completed March 2013 on a change for the ammonia storage tanks in installing pressure relief valves, a temperature gauge, and a pressure gauge to meet current regulatory standards. MOC#1 was done three years after the change was completed to update documentation. A Pre-Startup Safety Review Form for MOC#1 dated March 4, 2013 was signed and backdated March 4-8, 2013 on January 28, 2016, three years after the work was completed on March 2013. CHS Inc. provided an Employee Notification Of Change Form that was signed by employees on January 28-29, 2016 acknowledging that they have been trained and understood the changes.
14. **RMP Registration [68.160]:** CHS Inc. did not assign the correct program level to the aqua ammonia storage process as required by 40 C.F.R. § 68.160(b)(7). The June 9, 2014 RMP submitted by CHS Inc. identified the covered process, aqua ammonia storage, as a Program Level 2. The aqua ammonia storage process is a Program Level 3 process. The interconnection between the anhydrous ammonia storage tanks, the stationary converter (reactor) and the aqua ammonia storage tanks is a single covered process. The highest program level can only be applied to the covered process.

15. **RMP Registration [68.160]:** CHS Inc. did not assign the correct five- or six-digit NAIC code that most closely corresponds to the ammonia storage and converting process to aqua ammonia as required by 40 C.F.R. § 68.160(b)(7). The NAIC code 325311, Nitrogenous Fertilizer Manufacturing, applies to manufacturing of ammonia or ammonia nitrate, etc. The mixing of ammonia and water does not classify the process as a 325311. The NAIC code 325314, Fertilizer (Mixing Only) Manufacturing, applies to the process of aqua ammonia (conc. greater or equal to 20%).
16. **RMP Registration [68.160]:** CHS Inc. did not correctly report the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits for the aqua ammonia (20% concentration) storage process as required by 40 C.F.R. § 68.160(b)(7). CHS Inc. did not calculate the amount of ammonia in solution for the maximum intended inventory. CHS Inc. reported in their June 9, 2014 RMP submission a maximum intended inventory of 308,080 pounds of ammonia (20% concentration) solution (exceeds the threshold of 20,000 pounds of ammonia in solution). EPA General RMP Guidance – Chapter 1 explains how the amount of ammonia in solution should be calculated.

Other Areas of Concern:

17. The emergency shutoff located at the anhydrous storage tanks were placarded as "Converter" Emergency Shutoff Pull Ring" (Photo#6). The emergency pull cable shuts off the emergency valve on the ammonia supply pipe from the anhydrous ammonia storage tanks to the aqua ammonia converter. The emergency pull cable does not shutdown the converter. The placarding should be corrected to state,"Ammonia Emergency Shutoff Pull Ring".
18. Faded labels were observed on the back control panel of the aqua ammonia converter (Photo # 10). The labels should be replaced to be visible and readable by the operator.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1 PROCESS CHECKLIST PROGRAM LEVEL 2 PROCESS CHECKLIST PROGRAM LEVEL 3 PROCESS CHECKLIST

OTHER ATTACHMENTS: _____

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: CHS Inc., Docket No.: CAA-10-2016-0056**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
1200 Sixth Avenue, OCE-101
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Ken Blakeman
General Manager
CHS Inc.
1200 Snake River Avenue
P.O. Box 467-468
Lewiston, Idaho 83501

DATED this 31 day of March, 2016


Teresa Luna
Regional Hearing Clerk
EPA Region 10

