



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2015 DEC 21 PM 2:32

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2016-0005

This ESA is issued to: Osceola Food, LLC

At: 1027 Warren Avenue, Osceola, Iowa 50213

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

The United States Environmental Protection Agency, Region 7 (EPA) and Osceola Food, LLC (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 Osceola Food, LLC, 1027 Warren Avenue, Osceola, Iowa 50213.

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 June 3-5, 2015, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 1027 Warren Avenue, Osceola, Iowa, 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 **\$7,200**.

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 **\$7,200** 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-07-2016-0005, 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:




Date: 12/10/15

Name (print): CLINT WALTERS


Title (print): PLANT MANAGER
Osceola Food, LLC

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 12/22/15



Raymond Bosch
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 12/21/15

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

Karina Borromeo

Date: 12-21-15

Karina Borromeo
Regional Judicial Officer

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

Osceola Food, LLC
1027 Warren Avenue
Osceola, Iowa 50213
Docket No. CAA-07-2016-0005

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Executive Summary [68.155(c) & (f)]

No penalty assessed

The owner or operator failed to provide in the executive summary a brief description of the general accidental release prevention program, chemical specific prevention steps and planned changes to improve safety.

Facility addressed this post inspection.

Five-Year Accident History [68.168]

No penalty assessed

The owner or operator failed to submit in the RMP the information provided in §68.42(b) on each accident covered by §68.42(a).

Facility addressed this post inspection.

Prevention Program

Safety Information [68.65(c)(1)(iii)]

No penalty assessed

The owner or operator failed to document information pertaining to technology of the process for the maximum intended inventory.

How was this addressed:

Technology of all processes for maximum intended inventory determination was reviewed,
recalculated and documented in the Risk Management Program.

Prevention Program

Process Hazard Analysis [68.67(e)]

No penalty assessed

The owner or operator failed to establish a system to promptly address the team's findings and recommendations and failed to communicate the actions to operating, maintenance, and other employees whose work assignments were in the process and who may be affected by the recommendations.

Facility addressed this post inspection.

Process Hazard Analysis [68.67(c)(2)] \$600
The owner or operator failed to address in the PHA identification of any incident that had a likely potential for catastrophic consequences.

How was this addressed:

The team performed and completed a Process Hazard Analysis (PHA) that specifically focused on previous incidents that had the likely potential for catastrophic consequences. An Incident PHA has also been added as an addendum to the 2015 PHA.

Prevention Program
Operating Procedures [68.69(c)] \$1,200
The owner or operator failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary.
Facility addressed this post inspection.

Prevention Program
Training [68.71(a)(1)] \$1,500
The owner or operator failed to initially train in an overview of the process and in the operating procedures.
Facility addressed this post inspection.

Training [68.71(b)] *No penalty assessed*
The owner or operator failed to have refresher training been provided at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process.
Facility addressed this post inspection.

Prevention Program
Mechanical Integrity [68.73(e)] \$900
The owner or operator failed to correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation.
How was this addressed:
The deficiency of equipment observed in the ammonia machinery room has been corrected.
All ammonia sensors in the machinery room are now being monitored daily for operation.
Quantity and maintenance of the ammonia machinery room sensors exceeds the manufacturers and industry standards.

Prevention Program
Management of Change [68.75(b)(5)] \$300
The owner or operator failed to address the authorization requirements of the Management of Change for the proposed change prior to the change.
Facility addressed this post inspection.

Prevention Program

Pre-startup Safety Review [68.77(a)]

No penalty assessed

The owner or operator failed to conduct a PSSR for MOC-2013-41001 which was significant enough to require a change in the process safety information.

Facility addressed this post inspection.

Prevention Program

Compliance Audits [68.79(a)]

\$1,200

The owner or operator failed to *certify* that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed; and failed to document an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected.

How was this addressed:

Larry Kjellsen, Manager of Plant Engineering for Osceola Food, being a member of the compliance audit team has signed the past audits as the certifier for the plant. Future audits will be signed by the leading member of this team as the owner or operator. Documented response to each finding of the audit is entered into a tracking spreadsheet that identifies deficiency completion and action plans to complete.

Prevention Program

Compliance Audits [68.79(d)]

No penalty assessed

The owner or operator failed to promptly determine and document an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected.

Facility addressed this post inspection.

Prevention Program

Incident Investigation [68.81(d)]

\$600

The owner or operator failed to prepare a report at the conclusion of every investigation. *May 13, 21012 incident on rooftop an RMP incident investigation report was not completed.*

How was this addressed:

The team reviewed past incident investigations for completeness. A report for the May 13, 2012 incident was prepared with corrective actions currently being implemented.

Contractors [68.87(b)(1)]

\$900

The owner or operator failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.

How was this addressed:

A request for the missing refrigeration contractor safety information was issued, received back, and filed. The information packet request relating to contractor safety has been updated to include the Contractor Qualification 1 (CQ1) Form. The CQ1 Form contains information requesting the required safety information. Contractor selection will be performed internally.

TOTAL

\$7,200

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for >100 employees and the row for 1-5 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 Osceola Food, LLC = 1.0

***No adjusted penalty since multiplier is 1*

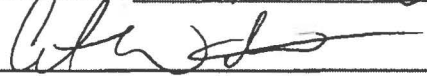
Total Penalty

\$7,200

This section must be also completed and signed by **Osceola Food, LLC**:

The approximate cost to correct the above items: \$ 46,650

Compliance staff name: CHANT WALTERS

Signed:  Date: 1/11/15

IN THE MATTER Of Osceola Food, LLC, Respondent
Docket No. CAA-07-2016-0005

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 Attorney for Complainant:

hoard.christine@epa.gov

Copy by First Class Mail to Respondent:

Clint Walters
Plant Manager
Osceola Food, LLC
1027 Warren Avenue
Osceola, Iowa 50213

Dated: 12/22/15



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7

