



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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
2013 MAY 13 AM 8:06

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2013-0013

This ESA is issued to: Loida Ag Service, LLC

At: 166 Main Street, McBride, Missouri 63776

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

The United States Environmental Protection Agency, Region 7 (EPA) and Loida Ag Service, 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 Loida Ag Service, LLC, 166 Main Street, McBride, Missouri 63776.

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 December 12, 2012, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 166 Main Street, McBride, Missouri, 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 **\$4,320**.

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 **\$4,320** 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-07-2013-0013, 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:

Deanna Smith
Office of Regional Counsel
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: 4-29-13

Name (print): RUSSELL H. LOIDA

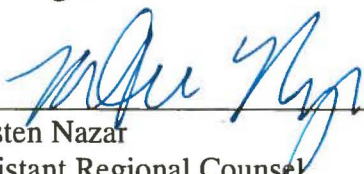
Title (print): MANAGER
Loida Ag Service, LLC

FOR COMPLAINANT:



for _____
Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 5/6/13



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 5/2/13

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

Karina Borromeo

Date: 5/13/2013

Karina Borromeo
Regional Judicial Officer

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

Loida Ag Service, LLC
166 Main Street
McBride, Missouri 63776
Docket No. CAA-07-2013-0013

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Hazard Assessment

Defining Offsite Impacts-Population
[§68.30(a)]

\$600

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?

NO OTHER INFORMATION REQUIRED AS PER
CONVERSATION WITH CHRISTINE HOARD ON 4-29-13.

Hazard Assessment

Documentation [§ 68.39(e)]

\$300

The owner or operator failed to maintain the following records on the offside consequence analyses: data used to estimate population and environmental receptors potentially affected.

How was this addressed?

Loida Ag Service, LLC, has provided EPA with documentation substantiating compliance with this requirement.

Prevention Program

Safety Information [§ 68.48(a)(2)]

\$300

Safety Information [§ 68.48(a)(4)]

\$300

The owner or operator failed to compile and maintain the following up-to-date safety information related to the regulated substances, processes, and equipment: maximum intended inventory of equipment in which the regulated substances are stored or processed; and equipment specifications.

How were these addressed?

NO ADDITIONAL INFORMATION REQUIRED AS PER
CONVERSATION WITH CHRISTINE HOARD ON 4-29-13.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Hazard Review [§ 68.48(b)]

\$1,500

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

How was this addressed?

NO OTHER INFORMATION REQUIRED AS PER
CONVERSATION WITH CHRISTINE HOARA ON 4-29-13.

Prevention Program

Maintenance [§ 68.56(a)]

\$1,200

The owner or operator failed to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.

How was this addressed?

Loida Ag Service, LLC, has provided EPA with documentation substantiating compliance with this requirement.

Prevention Program

Compliance Audits [§ 68.58(a)]

\$1,200

The owner or operator failed to certify that they have 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 following.

How was this addressed?

SEE ATTACHED COPY OF MOST RECENTLY
COMPLETED COMPLIANCE AUDIT. REQUESTED BY CHRISTINE HOARA.

Total Unadjusted Penalty

\$5,400

Calculation of Adjusted Penalty

1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 0-9 employees and 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 0.8. Therefore, the multiplier for Loida Ag Service, LLC = 0.8.

2nd Adjusted Penalty = \$5,400 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier) = \$4,320.

3rd An Adjusted Penalty of \$4,320 would be assessed to Loida Ag Service, LLC, for violations found during the RMP Compliance Inspection.

Total Adjusted Penalty

\$4,320

This section must be also be completed and signed by Loida Ag Service, LLC:

The approximate cost to correct the above items: \$ 3000

Compliance staff name: RUSSELL LOIDA

Signed: Russell N. Loida Date: 4-29-13

Compliance Audit

for
Program 2 Facilities
Subpart C 68.48 - 68.60

Business: Loida Ag Service
Address: 116 Main Street
McBride, MD 63796

RMP ID#: 1000-0016-8793

Guidance and checklist for industry-specific risk management programs, as provided for by EPA. Refer to page 3 for the specific requirement for conducting compliance audits.

Regulated Substance(s):
 Anhydrous Ammonia
 Aqua Ammonia

Instructions: Review each question and record your findings by circling Yes, No or Not Applicable (NA)

#	SAFETY INFORMATION (68.48)	FINDING	CORRECTIVE ACTION REQUIRED
1	Is current safety information available at this facility for the regulated substance(s)?	<input checked="" type="radio"/> Yes No	
2	Are current Material Safety Data Sheets (MSDS) available at this facility for the regulated substance(s)?	<input checked="" type="radio"/> Yes No	
3	Has the maximum inventory of the regulated substance stored at this facility been defined?	<input checked="" type="radio"/> Yes No	
4	Are established safe upper/lower temperatures, flows, pressures and compositions available at this site for the regulated substance(s)?	<input checked="" type="radio"/> Yes No	
5	Are current equipment specifications available at this facility for use in handling regulated substance(s)?	<input checked="" type="radio"/> Yes No	
6	Are the codes/standards used to design, build or operate the process available at this facility?	<input checked="" type="radio"/> Yes No	
7	Has the facility been designed and constructed in accordance with industry-accepted engineering practices?	<input checked="" type="radio"/> Yes No	
8	Is there a mechanism to update on a periodic basis, any changes to the RMP for this facility?	<input checked="" type="radio"/> Yes No	
HAZARD REVIEW (68.50)			
9	Has a hazard review been performed for the regulated substance(s), processes and procedures at this facility?	<input checked="" type="radio"/> Yes No	
10	Did the hazard review identify the hazards associated with the process and regulated substance(s)?	<input checked="" type="radio"/> Yes No	
11	Did the hazard review identify opportunities for equipment malfunctions or human error?	<input checked="" type="radio"/> Yes No	
12	Did the hazard review identify the safeguards used or needed to control the hazards or prevent equipment malfunctions or human error?	<input checked="" type="radio"/> Yes No	
13	Did the hazard review identify any steps used or needed to detect or monitor releases?	<input checked="" type="radio"/> Yes No	
14	Has the operator of this facility inspected all equipment and determined it is operated in accordance with all applicable standards and rules?	<input checked="" type="radio"/> Yes No	
15	Has the operator of this facility documented the results of the hazard review?	<input checked="" type="radio"/> Yes No	
16	Is there a mechanism to insure that problems identified in an inspection are corrected in a timely manner?	<input checked="" type="radio"/> Yes No	
17	Has the operator of this facility updated the inspection or review at least once every five years?	<input checked="" type="radio"/> Yes No	
18	Have all issues identified in the hazard review been resolved prior to startup of the changed process?	<input checked="" type="radio"/> Yes No	

#	OPERATING PROCEDURES (68.52)	FINDING	CORRECTIVE ACTION REQUIRED
19	Has the operator prepared written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process? Operating procedures provided by equipment manufacturers or developed by organizations knowledgeable about the process and equipment may be used as a basis.	<input checked="" type="radio"/> Yes No	
20	Does the written operating procedures address normal initial startup and shutdown?	<input checked="" type="radio"/> Yes No	
21	Does the written operating procedures address normal operations?	<input checked="" type="radio"/> Yes No	
22	Does the written operating procedures address temporary operations?	Yes No <input checked="" type="radio"/> NA	
23	Does the written operating procedures address emergency shutdown and operations?	<input checked="" type="radio"/> Yes No	
24	Does the written operating procedures address startup following a major change that requires a hazard review?	<input checked="" type="radio"/> Yes No	
25	Does the written operating procedures address the consequences of deviations and steps required to correct or avoid deviations?	<input checked="" type="radio"/> Yes No	
26	Does the written operating procedures address equipment inspections?	<input checked="" type="radio"/> Yes No	
27	Is there a mechanism to insure the written operating procedures are updated?	<input checked="" type="radio"/> Yes No	
TRAINING (68.54)			
28	Has the operator of this facility provided training and tested to be competent each employee in operating a covered process?	<input checked="" type="radio"/> Yes No	
29	Has the operator of this facility provided refresher training at least every three years?	<input checked="" type="radio"/> Yes No	
30	Has the operator of this facility consulted with the employees to determine if the frequency of refresher training is appropriate?	<input checked="" type="radio"/> Yes No	
31	Does the operator of this facility provide training and testing to be competent for each employee on any new or updated process?	<input checked="" type="radio"/> Yes No	
MAINTENANCE (68.56)			
32	Has the operator prepared and implemented written maintenance procedures for insuring the on-going mechanical integrity of the process equipment?	<input checked="" type="radio"/> Yes No	
33	Has the operator of this facility provided training to those employees responsible for performing maintenance?	<input checked="" type="radio"/> Yes No	
34	Has every contractor providing employees for the purpose of performing maintenance on process equipment been trained on the written maintenance procedures?	<input checked="" type="radio"/> Yes No NA	
35	Has the operator of this facility inspected all equipment and determined it is maintained in accordance with all generally accepted engineering practices?	<input checked="" type="radio"/> Yes No	
COMPLIANCE AUDITS (68.58)			
36	Has the operator performed and certified a compliance audit has been performed at least every three years?	<input checked="" type="radio"/> Yes No	
37	Has the compliance audit for this facility been conducted by a person knowledgeable of the process?	<input checked="" type="radio"/> Yes No	
38	Has the person conducting the compliance audit generated a written report of the audit findings?	<input checked="" type="radio"/> Yes No	

#	COMPLIANCE AUDITS (68.58) continued	FINDING	CORRECTIVE ACTION REQUIRED
39	Has the operator of this facility promptly determined and documented an appropriate response to each of the findings of this audit and documented that any deficiencies had been corrected?	<input checked="" type="radio"/> Yes No	
40	Have the two most recent compliance audits and findings been maintained on file?	<input checked="" type="radio"/> Yes No	
INCIDENT INVESTIGATION (68.60)			
41	Has the operator investigated each incident that resulted in, or could have resulted in an accidental release?	Yes No <input checked="" type="radio"/> NA	
42	Were all incident investigations initiated within 48 hours following the incident?	Yes No <input checked="" type="radio"/> NA	
43	Did the incident investigation include the date and description of the incident?	Yes No <input checked="" type="radio"/> NA	
44	Did the incident investigation include the date the investigation of the incident began?	Yes No <input checked="" type="radio"/> NA	
45	Did the incident investigation include the factors that contributed to the incident?	Yes No <input checked="" type="radio"/> NA	
46	Did the incident investigation include any recommendations resulting from the investigation?	Yes No <input checked="" type="radio"/> NA	
47	Has the operator of this facility promptly addressed any incident investigation findings or recommendations?	Yes No <input checked="" type="radio"/> NA	
48	Has the investigation documentation been maintained on file at the facility?	Yes No <input checked="" type="radio"/> NA	
49	Has the operator reviewed the findings with all affected personnel whose jobs are affected by the findings?	Yes No <input checked="" type="radio"/> NA	
50	Has the operator maintained investigation summaries on file at this facility for five years?	Yes No <input checked="" type="radio"/> NA	
51	Site-specific Question:	Yes No NA	
52	Site-specific Question:	Yes No NA	
53	Site-specific Question:	Yes No NA	
54	Site-specific Question:	Yes No NA	
55	Site-specific Question:	Yes No NA	

Compliance Audits 40 CFR 68.58 - (the rule)

- (a) The owner or operator shall certify that they have 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.
- (b) The compliance audit shall be conducted by at least one person knowledgeable in the process.
- (c) The owner or operator shall develop a report of the audit findings.
- (d) The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected.
- (e) The owner or operator shall retain the two (2) most recent compliance audit reports. This requirement does not apply to any compliance audit report that is more than five years old.

Record of Findings

IMPORTANT: Mark the statement that properly describes the results of this compliance audit or use the provided space to write in your own conclusion. Each person performing a compliance audit must form an opinion after completing this assessment and record their findings. Any deficiencies found as a result of performing the compliance audit must be corrected and documented on the Corrective Action page.

- No deficiencies were found as the result of the compliance audit performed for this facility.
- Deficiencies were found as the result of the compliance audit performed for this facility and have been corrected.
- Deficiencies were found as the result of the compliance audit performed for this facility and will be corrected within _____ days.
- Use this space for any other findings or conclusions: _____
- _____
- _____

Notes:

Certification

I am knowledgeable of the covered process and have to the best of my knowledge, information and belief performed, after reasonable inquiry, this compliance audit.

Printed Name: Mark Roth (x) Mark Roth Date Performed: 3/13/13
(Facility Representative) (Signature)

IN THE MATTER OF Loida Ag Service, LLC, Respondent
Docket No. CAA-07-2013-0013

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:

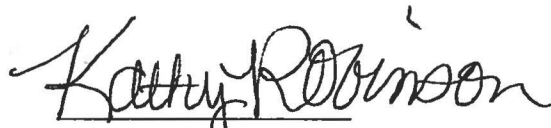
Copy emailed to
Attorney for Complainant:

nazar.kristen@epa.gov

Copy sent First Class Mail to Respondent:

Russell H. Loida, Manager
Loida Ag Service, LLC
166 Main Street
McBride, Missouri 63776

Dated: 5/13/13

A handwritten signature in black ink that reads "Kathy Robinson". The signature is written in a cursive style with a large, looped "K" and "R".

Kathy Robinson
Hearing Clerk, Region 7