



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2011 SEP 28 PM 2:33

EPA REGION VIII
READING CLERK

DOCKET NO.: CAA-08-2011-0028

IN THE MATTER OF:

STRATTON ANHYDROUS AMMONIA
PLANT

Stratton, Colorado

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

The Parties are hereby **ORDERED** to comply with all of the terms of this Final Order.

SO ORDERED THIS 28th Day of September, 2011

Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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FILED
EPA REGION VIII
SEASIDE CLERK

IN THE MATTER OF:)	
)	
Stratton Anhydrous Ammonia Plant)	EXPEDITED SETTLEMENT AGREEMENT
Stratton, Colorado)	
)	(COMBINED COMPLAINT AND
)	CONSENT AGREEMENT)
Respondent)	DOCKET NO.: CAA-08-2011-0028

This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter ESA) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter.

This ESA is being entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated official, the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, and by the Stratton Anhydrous Ammonia Plant (Respondent) pursuant to § 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). The EPA and the U.S. Department of Justice have determined, pursuant to § 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that the EPA may pursue this type of case through administrative enforcement action.

ALLEGED VIOLATIONS

On February 23, 2011, an authorized representative of the EPA conducted a compliance inspection of the Stratton Anhydrous Ammonia Plant facility located at 214 1st Street in Stratton, Colorado, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. part 68 under § 112(r) of the Act. The EPA found that the facility had violated regulations implementing § 112(r) of the Act by failing to comply with the specific requirements outlined in the attached *RMP Program Level 2 Process Checklist-Alleged Violations & Penalty Assessment* (Checklist and Penalty Assessment).

SETTLEMENT

In consideration of Respondent's facility service size, 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 this ESA in order to settle the violations for the total penalty amount of \$1,440. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.

This settlement is subject to the following terms and conditions:

1. The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in the Checklist and Penalty Assessment and consents to the assessment of the penalty as stated above.
2. Respondent waives its rights to a hearing afforded by § 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA, and consents to the EPA's approval of the ESA without further notice.
3. Each party to this action shall bear its own costs and attorney's fees, if any.
4. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent will correct the violations listed in the Checklist and Penalty Assessment no later than 60 days from the date the ESA is signed by the Respondent.

After the Regional Judicial Officer issues the Final Order, the Respondent will receive a fully executed copy of this ESA and the Final Order. Within 20 days of receiving the signed Final Order, Respondent shall remit payment in the amount of \$1,440. **The payment shall reference the name and docket number of this case** and be made by remitting a cashier's or certified check, for this amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Federal Express, Airborne, or other commercial carrier:

U.S. Bank
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire Transfers:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727

SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727
Environmental Protection Agency "

ACH Transactions (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887 6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account Number: 310006
CTX Format.

There is now an On Line Payment Option, available through the US Department of Treasury. This payment option can be accessed from the information below:

[www. PAY.GOV](http://www.PAY.GOV)
(Enter sfo 1.1 in the search field
Open form and complete required fields)

A copy of the check, or notification that the payment has been made by one of the other methods listed above, shall be sent simultaneously to:

Tina Artemis, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8RC]
Denver, Colorado 80202-1129

and

David Cobb
EPCRA/RMP Enforcement Coordinator
US EPA, Region 8
1595 Wynkoop Street [8ENF-AT]
Denver, Colorado 80202-1129

The penalty specified in this ESA shall not be deductible for purposes of State or Federal taxes.

Once Respondent receives a copy of the completely signed ESA, a copy of the Final Order issued by the Regional Judicial Officer in this matter, and Respondent pays in full the penalty assessment described above, then the EPA agrees to take no further civil action against the Respondent for any

violations of requirements contained in the Risk Management Plan Penalty Checklist that may have occurred on or before February 23, 2011. The EPA does not waive its right to take enforcement action for other violations of the Clean Air Act or for violations of any other statute.

If Respondent fails to return the signed original ESA by the stated deadline, fails to timely submit the above-referenced payment, or fails to correct the violations no later than 60 days from the date the ESA is signed, a motion will be filed to withdraw the consent agreement and final order. EPA may then file an administrative or civil enforcement action against Respondent for the violations addressed herein.

This ESA is binding on the parties signing below.

Stratton Anhydrous Ammonia Plant Expedited Settlement Agreement

FOR RESPONDENT:

Dan Slinger

Date: 9-13-2011

Name (print): Dan Slinger

Title (print): General Manager

FOR COMPLAINANT:

Andrew M. Gaydosh

Date: 9/26/2011

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

**RMP PROGRAM LEVEL 2 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Facility Name: Stratton Anhydrous Ammonia Plant (SAAP) – Stratton, Colorado

INSPECTION DATE: 2/23/2011

SUBPART C: PREVENTION PROGRAM

PENALTY

Prevention Program – Hazard Review [68.50]

Has the owner or operator documented the results of the review and ensured that the problems identified are resolved in a timely manner? [68.50(c)] **No.**

- **SAAP failed to document the results of the Hazard Reviews dated 5-2004 and 12-2008.**
- **The most recent compliance audit indicated they had properly documented the results of the Hazard Review when they had not done so.**

300

600

Prevention Program – Operating Procedures [68.52]

Has the owner or operator prepared written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process consistent with the safety information for that process? [68.52(a)] **No.**

- **Operating procedures were not available for changing out safety relief valves prior to January 11, 2011.**
- **An incident report from January 11, 2011 indicated that ammonia was bled directly to the atmosphere which is not in accordance with RAGAGEP (ANSI K61.1 section 4.4.1 states the following:
If ammonia is leaking from a container, the safest, practical means should be taken to stop or abate the leak. If the leak cannot be stopped, the ammonia should be fed to the point of use or transferred to another suitable ammonia container. Small quantities of ammonia from a leaking container can be absorbed by discharging into a vessel containing at least 1 gallon (4 L) of water to 1 lb (0.5 kg) of ammonia. The ammonia should be injected into the water as near the bottom of the vessel as practical. If a hose is used to inject ammonia into water, the hose must be weighted or secured so the end of the hose will remain near the bottom of the vessel.)**

1500

Prevention Program – Maintenance [68.56]	
<p>Has the owner or operator prepared and implemented procedures to maintain the on-going mechanical integrity of the process equipment? The owner or operator may use the procedures or instructions provided by covered process equipment vendors or procedures in Federal or state regulations or industry codes as the basis for stationary source maintenance procedures. [68.56(a)]: No.</p> <ul style="list-style-type: none"> ▪ Mechanical Integrity procedures for the inspection of excess flow valves were not available. ▪ Rego, the valve manufacturer, recommends a periodic interval not to exceed one year. ▪ Documentation was not available confirming inspections have been performed on the excess flow valves. 	1200
BASE PENALTY	\$3,600

RECOMMENDATIONS
<p>1. Ensure that the Hazard Review is updated every 5 years to identify any new hazards and any hazards that may not have been identified in the previous review. (The Hazard Review on file appeared to be the previous Review with a different date.)</p>
<p>2. Ensure retention of documentation verifying that each operator at SAAP has received training, at least every three years, confirming that he/she understands and adheres to the current operating procedures of the process.</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

EXPEDITED SETTLEMENT PENALTY MATRIX
Stratton Anhydrous Ammonia Plant – Stratton, Colorado

MULTIPLIER FACTORS FOR CALCULATING PROPOSED PENALTIES FOR
VIOLATIONS FOUND DURING RMP INSPECTIONS

<i>(Amt of Chemical in process) divided by (Threshold Quantity)</i>		1-5*	5-10*	>10*
# of Employees	1-5	.1	.15	.3
	6-20	.15	.3	.4
	21-50	.3	.4	.6
	51-100	.4	.6	.7
	>100	.6	.7	1

*times the threshold quantity listed in CFR 68.130 for the particular chemical use in a process

PROPOSED PENALTY WORKSHEET

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program Inspections Findings, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility.

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

Example:

XYZ Facility has 24 employees and 7 times the threshold amount for the particular chemical in question. After adding the penalty numbers in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet an unadjusted penalty of \$4700 is derived.

Calculation of Adjusted Penalty

- 1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 21-50 employees and the row for 5- 10 times the threshold quantity amount gives a multiplier factor of 0.4. Therefore, the multiplier for XYZ Facility = 0.4.
- 2nd Use the Adjusted Penalty formula

Adjusted Penalty = \$4700 (Unadjusted Penalty) X 0.4 (Size-Threshold Multiplier)
Adjusted Penalty = \$1880
- 3rd An Adjusted Penalty of \$1880 would be assessed to XYZ Facility for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

Calculation for Adjusted Penalty

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

$$\$1440 = \$3600 \times 0.4^*$$

* # of employees is 20. The covered chemical, anhydrous ammonia, exceeds the listed threshold value by >10 times.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT AND FINAL ORDER** in the matter of **STRATTON ANHYDROUS AMMONIA PLANT; DOCKET NO.: CAA-08-2011-0028**, was filed with the Regional Hearing Clerk on September 28, 2011.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Rochlin, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on September 28, 2011, to:

Dan Slinger, General Manager
Stratton Anhydrous Ammonia Plant
P.O. Box 25, 214 1st Street
Stratton, CO 80836

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

September 28, 2011



Tina Artemis
Paralegal/Regional Hearing Clerk