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U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of:	)	
	)	
IOWA PREMIUM, LLC	)	**Docket No.** CAA-07-2017-0205
	)	
Respondent	)	
	)	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Iowa Premium, LLC (Respondent) have agreed to a settlement of this action before the 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 and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondent is therefore in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant, by delegation from the Administrator of the EPA and the Regional Administrator, EPA, Region 7, is the Director of the Air and Waste Management Division, EPA, Region 7.

4. Respondent is Iowa Premium, LLC, which owns and operates a beef slaughter and packaging facility located at 3337 L Avenue in Tama, Iowa (Respondent's Facility).

Statutory and Regulatory Background

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of the EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates that the Administrator promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the chemical accident prevention regulations mandated by Section 112(r)(7). Specifically, Section 112(r)(7), 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances.

6. On June 20, 1996, the EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). This rule requires owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program and an emergency response program.

7. The regulations at 40 C.F.R. Part 68 set forth the requirements of a risk management program that must be established at each stationary source. The risk management program is described in a Risk Management Plan ("RMP") that must be submitted to the EPA.

8. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

9. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions apply to covered processes. Pursuant to 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 requirements if the process does not meet the eligibility requirements of Program 1, as described in 40 C.F.R. § 68.10(b), and it either falls under a specified North American Industry Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

10. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and most recently by the Federal

Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $37,500 for violations that occurred from January 12, 2009, through November 2, 2015, and to $45,268 for violations that occur after November 2, 2015.

Definitions

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

12. The regulations at 40 C.F.R. § 68.3 define "stationary source," in part, as any buildings, structures, equipment, installations or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

13. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

14. The regulations at 40 C.F.R. § 68.3 define "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

15. The regulations at 40 C.F.R. § 68.3 define "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

General Factual Allegations

16. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

17. Respondent's Facility is a "stationary source" pursuant to 40 C.F.R. § 68.3.

18. Anhydrous ammonia is a "regulated substance" pursuant to 40 C.F.R. § 68.3. The threshold quantity for anhydrous ammonia, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

19. On or about September 9, 2015, representatives of the EPA conducted an inspection of Respondent's Facility to determine compliance with Section 112(r) of the CAA and 40 C.F.R. Part 68.

20. Information gathered during the EPA inspection revealed that Respondent had greater than 10,000 pounds of anhydrous ammonia in a process at its facility.

21. From the time Respondent first had onsite greater than 10,000 pounds of anhydrous ammonia in a process, Respondent was subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 because it was an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

22. From the time Respondent first had onsite greater than 10,000 pounds of ammonia in a process, Respondent was subject to Program 3 prevention program requirements because, pursuant to 40 C.F.R. § 68.10(d), the covered process at its facility did not meet the eligibility requirements of Program 1 and was subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

23. From the time Respondent first had onsite greater than 10,000 pounds of anhydrous ammonia in a process, Respondent was required under Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 requirements provided at 40 C.F.R. § 68.12(d).

Allegations of Violation

24. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1

25. The facts stated in Paragraphs 16 through 23 above are herein incorporated.

26. The regulation at 40 C.F.R. § 68.12(d)(2) requires the owner or operator of a stationary source subject to the Risk Management Program, 40 C.F.R. Part 68, to conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20 through 68.39. Pursuant to 40 C.F.R. § 68 Subpart B, the owner or operator shall conduct a hazard assessment that would include the offsite consequence analysis parameters, worst-case and alternative release scenario analysis, define offsite impacts to the population and environment, and maintain documentation of offsite consequences analysis.

27. The EPA inspection revealed that Respondent did not have a hazard assessment and office consequence analysis. Specifically:

(a) Respondent failed to analyze the offsite consequence parameters, as required by 40 C.F.R. § 68.22;

(b) Respondent failed to analyze the worst-case release scenario, as required by 40 C.F.R. § 68.25;

(c) Respondent failed to analyze the alternative release scenario, as required

by 40 C.F.R. § 68.28;

(d) Respondent failed to define offsite impacts on the population, as required by 40 C.F.R. § 68.30;

(e) Respondent failed to define offsite impacts on the environment, as required by 40 C.F.R. § 68.33; and

(f) Respondent failed to maintain documentation of the offsite consequence analyses, as required by 40 C.F.R. § 68.39.

28. Respondent's failure to conduct a hazard assessment pursuant to the requirements of 40 C.F.R. §§ 68.20 through 68.42, as required by 40 C.F.R. § 68.12(d)(2), is a violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Count 2

29. The facts stated in Paragraphs 16 through 23 above are herein incorporated.

30. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87.

31. The EPA inspection revealed that Respondent failed to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87, as required by 40 C.F.R. § 68.12(d)(3). Based on the EPA's inspection, Respondent did not have a written mechanical integrity program. Respondent relied on the refrigeration contractors to notify the facility of any need for preventative maintenance. Respondent did not identify, with prominent signage having letters sufficiently large to be easily read, the main shut off valve (king valve). Specifically:

(a) Respondent failed to compile written process safety information pertaining to the equipment in the covered process, as required by 40 C.F.R. § 68.65(d)(1); and

(b) Respondent failed to document that equipment in the covered process complies with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2).

32. Respondent's failure to Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87, as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Count 3

33. The facts stated in Paragraphs 16 through 23 above are herein incorporated.

34. The regulation at 40 C.F.R. § 68.12(d)(4) requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement an emergency response program as provided in 40 C.F.R. § 68.90 through 68.95. Pursuant to 40 C.F.R. §§ 68.90(a), the owner and operator of a stationary source with a process subject to Program 3 requirements shall comply with the emergency response program requirements of 40 C.F.R. § 68.95. However, the regulation at 40 C.F.R. § 68.90(b) provides, in pertinent part, that the owner or operator of a stationary source whose employees will not respond to accidental releases of regulated substances need not comply with 40 C.F.R. § 68.95 provided that (1) for stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under Section 303 of the Emergency Planning and Community Right-to-Know Act, 42. U.S.C. § 11003; and (2) appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

35. The EPA inspection revealed that Respondent would rely on local emergency responders in the event of an accident or release from the facility. Subsequent investigation revealed that Respondent did have a contact with the Tama County Emergency Management Agency however the facility had not coordinated response actions with the local fire department and Respondent's facility was not included in the community emergency response plan. The EPA's inspection further revealed that Respondent failed to comply with the emergency response program requirements of 40 C.F.R. § 68.95, as required by 40 C.F.R. § 68.90(a).

36. Respondent's failure to develop and implement an emergency response program as provided in 40 C.F.R. §§ 68.90 and 68.95, as required by 40 C.F.R. § 68.12(d)(4), is a violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Count 4

37. The facts stated in Paragraphs 16 through 23 above are herein incorporated.

38. The regulation at 40 C.F.R. § 68.12(a) requires the owner or operator of a stationary source subject to the Risk Management Program, 40 C.F.R. Part 68, to submit a single RMP as provided in 40 C.F.R. §§ 68.150 to 68.185. Pursuant to 40 C.F.R. § 68.160, the owner or operator shall complete a single registration form that provides, inter alia, the Program level of each covered process and whether the stationary source is subject to 29 C.F.R. § 1910.119. Additionally, pursuant 40 C.F.R. § 68.175(a), the owner or operator is required to provide the information identified at 40 C.F.R. § 68.175(b) through (p) for each Program 3 process.

39. Respondent failed to submit an RMP for the covered process at the Facility, as required by 40 C.F.R. § 68.12(a). Specifically:

(a) Respondent failed to complete a registration form pursuant to 40 C.F.R. § 68.160(a) that includes the information required by 40 C.F.R. § 68.160(b), including the Program level of the process and whether the stationary source is subject to 29 C.F.R. § 1910.119; and

(b) Respondent failed to provide the Program 3 prevention information identified at 40 C.F.R. § 68.175(b) through (p), as required by 40 C.F.R. § 68.175(a).

40. Respondent's failure to submit an RMP as required by 40 C.F.R. § 68.12(a) is a violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Count 5

41. The facts stated in Paragraphs 16 through 23 above are herein incorporated.

42. The regulation at 40 C.F.R. § 68.12(d)(1) requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement a management system as provided in 40 C.F.R. § 68.15.

43. The EPA inspection revealed that Respondent failed to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.15 as required by 40 C.F.R. § 68.12(d)(1). Based on information gathered during the EPA's inspection, Respondent failed to develop and implement a management system. Specifically:

(a) Respondent failed to develop a management system to oversee the implementation of the risk management program elements, as required by 40 C.F.R. § 68.15(a);

(b) Respondent failed to assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements, as required by 40 C.F.R. § 68.15(b); and

(c) Respondent failed to document names or positions of those responsible for the implementation of the risk management program other than the qualified person identified under paragraph (b) of this section. The names or positions shall be documented and the lines of authority defined through an organization chart or similar document, as required by 40 C.F.R. § 68.15(c).

44. Respondent's failure to develop and implement a management system, as required by 40 C.F.R. § 68.12(d)(1), is a violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

CONSENT AGREEMENT

45. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

(a) Admits the jurisdictional allegations set forth herein;

(b) admits to the facts stipulated herein;

(c) consents to the assessment of a civil penalty, as stated herein;

(d) consents to the issuance of any specified compliance or corrective action order;

(e) consents to any conditions specified herein;

(f) consents to any stated Permit Action;

(g) waives any right to contest the allegations set forth herein; and

(h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

46. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein and to completion of the SEP described below.

47. Respondent and the EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

48. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a mitigated civil penalty of Fourteen Thousand Seven Hundred and Forty-Five Dollars, ($14,745), as set forth below, and shall perform a Supplemental Environmental Project (SEP) as set forth in this Consent Agreement and Final Order. The projected cost of the SEP is Forty-Nine Thousand Eight Hundred Ninety Dollars ($49,890). The SEP is further described below.

49. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at *http://www.epa.gov/financial/makepayment*.

50. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Anne Rauch, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

51. Respondent understands it's failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

52. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for purposes of settlement to the payment of the civil penalty and completion of the Supplemental Environmental Project described below.

Supplemental Environmental Project

53. In response to the violations of the CAA alleged in this Consent Agreement and Final Order and in settlement of this matter, although not required by the CAA or any other federal, state, or local law, Respondent shall complete the SEP described in this Consent Agreement and Final Order, which the parties agree is intended to secure significant environmental or public health protection and improvement.

54. Respondent shall complete the following SEP: Iowa Premium is electing to improve community preparedness in the case of an emission, accident, or natural disaster through this SEP. Iowa Premium will utilize a vendor to implement a turnkey, new outdoor warning siren project. The siren would work with all current encoding and activation formats; including voice messages, industry standard warning tones, and silent test/health monitoring capabilities. The vendor will install a Whelen brand WPS2900-10 omni-directional siren. The project is intended to achieve improved emergency response to major events, natural disasters, accidental hazardous chemical spills, and other significant events. The project would reduce the overall risk to public health in the potentially impacted community of Tama, Iowa. The project would ensure that potentially impacted residents are notified of an emission, weather event, or natural disaster and can take prompt action to avoid exposure or injury. Specific to the operations of Iowa Premium, it would allow local community officials to respond effectively to a chemical

release and inform potentially affected citizens in a timely manner. The City of Tama, Iowa, will be the recipient of the project. Educational and outreach activities will include direct mailing to Tama area residents, ads in Tama newspapers, announcement on customer water bills that will go to Tama area residents, notifications on the City of Tama website and press releases from Iowa Premium and City of Tama. Once completed, the project will provide emergency response communication to approximately 2,877 people within a 1.16-mile radius. The SEP shall cost at least Forty-Nine Thousand Eight Hundred Ninety Dollars ($49,890). Respondent agrees that the SEP shall be completed within one hundred eighty (180) days of the Effective Date of this Consent Agreement and Final Order.

55. This SEP shall be performed in accordance with the requirements of this Consent Agreement and Final Order.

56. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to the EPA contact identified in Paragraph 60 below. The SEP Completion Report shall contain the following information:

(a) Detailed description of the SEP as implemented.

(b) Description of any problems encountered in implementation of the projects and the solution thereto;

(c) Description of the specific environmental and/or public health benefits (from SEP policy: to the extent feasible, quantify the benefits associated with the project and provide a report setting forth how the benefits were measures or estimated) resulting from implementation of the SEP; and

(d) Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order.

57. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all SEP costs. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

58. Third-Party SEPs: See 2015 Update to the 1998 EPA SEP Policy for specific language about third party implementers and third party recipients.

59. The SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

60. The SEP Completion Report shall be submitted on or before the due date specified above to:

> Anne Rauch, Attorney
> Office of Regional Counsel
> U.S. Environmental Protection Agency, Region 7
> 11201 Renner Boulevard
> Lenexa, Kansas 66219.

61. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEP under this Consent Agreement and Final Order from the date of its execution of this Consent Agreement and Final Order shall include the following language:

> This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency to enforce federal laws.

62. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

(a) That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is $49,890;

(b) That, as of the date of executing this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

(c) That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement and Final Order;

(d) That Respondent has not received and will not receive credit for the SEP in any other enforcement action;

(e) That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;

(f) That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and

(g) Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 54.

63. Stipulated penalties for failure to complete SEP/Failure to spend agreed-on amount.

(a) In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in this Consent Agreement and Final Order, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

i. If a SEP has not been completed satisfactorily and timely pursuant to this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty to the United States in the amount of $39,912, minus any documented expenditures determined by EPA to be acceptable for the SEP.

ii. If the SEP is completed in accordance with this Consent Agreement and Final Order, but Respondent spent less than proposed SEP cost, Respondent shall pay a stipulated penalty to the United States which equals the difference between the proposed SEP amount as defined above and the actual cost of SEP.

iii. For failure to submit the SEP Completion Report, Respondent shall pay a stipulated penalty in the amount of $250 for each day after the report was originally due until the report is submitted.

(b) The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

(c) Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity or other resolution under this Consent Agreement and Final Order.

(d) Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of the Penalty Payment section above. Interest and late charges shall be paid as stated in Paragraph 51 herein.

(e) Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

(f) The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement and Final Order.

Effect of Settlement and Reservation of Rights

64. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of CAA or any other applicable law.

65. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

66. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of the CAA and its implementing regulations.

67. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

68. Complainant reserves the right enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

69. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

70. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

71. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

72. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

RESPONDENT:
IOWA PREMIUM, LLC

Date: August 15, 2017

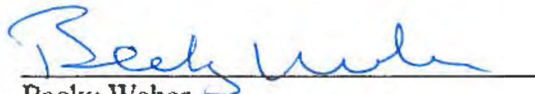
Jeffrey J Johnson
Signature

Jeffrey J Johnson
Name

CEO
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/17/17



Becky Weber
Director, Air and Waste Management Division
U.S. Environmental Protection Agency, Region 7

Date: 8/17/17

Anne Rauch
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

August 23, 2017
Date

CERTIFICATE OF SERVICE

I certify that on the date below, I hand delivered the original and one true copy of this Consent Agreement and Final Order to the Regional Hearing Clerk, United States Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. I further certify that on the date below I sent by certified mail, return receipt requested, a true and correct copy of the original Consent Agreement and Final Order to the following:

Iowa Premium, LLC
3337 L Avenue
Tama, Iowa 52339

Dated this 28 th day of August, 2017.

Lisa Haugen
Name