

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2021-0212(b)

**This ESA is issued to: Agri-Chem LLC
4899 Pembroke Road
Hopkinsville, Kentucky 42236**

for violating 40 C.F.R. § 68.48(a)(4), 40 C.F.R. § 68.48(b), 40 C.F.R. § 68.50(d), 40 C.F.R. § 68.56(d) and Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 4, Director of the Enforcement and Compliance Assurance Division (Complainant), and by Agri-Chem LLC (Respondent), pursuant to Section 113(d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(d), and pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent’s facility located at 4899 Pembroke Road, Hopkinsville, Kentucky, on December 8, 2020, the EPA alleges that the Respondent violated the Act’s Section 112(r)(7), Chemical Accident Prevention Provisions, 42 U.S.C. § 7412(r)(7), when at the time of inspection, Respondent did not provide evidence that:

It compiled and maintained up-to-date safety information regarding the specifications of the above-ground or buried ammonia piping used in the process, as required by 40 C.F.R. § 68.48(a)(4), and instead, provided a document from the Minnesota Department of Agriculture for anhydrous ammonia system piping requirements that is not specific to the location;

It ensured that the process is designed in compliance with recognized and generally accepted good engineering practices (RAGAGEP), as required by 40 C.F.R. § 68.48(b) when,

- During the walkthrough, the EPA inspector observed the uploading hose on tank 1 had a date identified as “remove no later than 2017.” According to Compressed Gas Association (CGA) G2.1 2014 -5.7, hoses must be immediately removed from service when failing inspection or requalification testing, or when they have reached their maximum service period.
- The anhydrous ammonia tank was missing the NFPA diamond 3-1-0 for outside storage of anhydrous ammonia. CGA G2.1-2014 6.6.1 requires each container to

be conspicuously marked with a hazard warning label describing the health and physical hazards of the product, first aid information and an NFPA Diamond.

It updated the hazard review, as required by 40 C.F.R. § 68.50(d), after the installation of three new anhydrous ammonia tanks, which amounted to a major change in the process; and,

It performed mechanical integrity testing on any of the older anhydrous ammonia storage pressure vessels according to the mechanical integrity procedures that followed RAGAGEP and according to a frequency consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience, as required by 40 C.F.R. § 68.56(d). American Petroleum Institute (API) 510 (pressure vessel inspection code) 2006, Section 6.5.5.1, specifies that unless justified by a Risk Based Inspection assessment, the period between internal or on-stream inspections shall not exceed one half the remaining life of the vessel or ten years, whichever is less. The Respondent has not conducted either internal or on-stream inspections that followed RAGAGEP in more than 40 years of ownership.

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith efforts 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 cited above, for the total penalty amount of **\$3,900**.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits the jurisdictional allegations contained herein, neither admits nor denies the specific factual allegations contained herein, 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 and Final Order or otherwise contest the allegations contained in this ESA; and each party to this action shall bear its own costs and fees, if any.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the alleged violations listed in this ESA.

Within **fifteen (15) days** of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of **\$3,900**. Respondent's payment shall be made by sending a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$3,900** in payment of the full penalty amount to one of the following addresses or via wire transfer:

For payment sent via electronic transfer

For payment by wire transfer, in lieu of a cashier's check or certified check, if desired, should be directed to the Federal Reserve Bank of New York using the following information:

ABA: 021030004

Account: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: "U.S. Environmental Protection Agency";

The wire transfer instructions shall reference the Respondent's name and Docket Number of this ESA.

For payment sent via Standard Delivery
U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
St. Louis, MO 63197-9000; or

For payment sent for Signed Receipt Confirmation (FedEx, DHL, UPS, USPS Certified, Registered, etc.)
U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Delivery Location Phone Number: 314-425-1819

The Respondent's name and the Docket Number of this ESA must be included on the check. The Docket Number is located at the top left corner of the first page of this ESA.

At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this ESA to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
R4_Regional_Hearing_Clerk@epa.gov, and

Om P. Devkota
U.S. EPA Region 4
Air Enforcement Branch
Enforcement and Compliance Assurance Division
61 Forsyth Street S.W.
Atlanta, Georgia 30303
Devkota.om@epa.gov

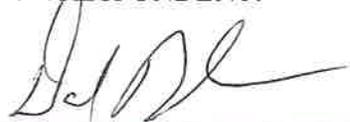
The penalty specified in this ESA shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of State or Federal taxes.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for Federal civil penalties for the violations alleged in this ESA. The EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

FOR RESPONDENT:



Date: 7/30/21

Name (print): DAVID BUCHANAN

Title (print): GENERAL MANAGER
Agri-Chem LLC

FOR COMPLAINANT:

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

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

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order in the Matter of Agri-Chem LLC, Docket No. CAA-04-2021-0212(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Mr. David Buchanan, General Manager
Agri-Chem LLC
Email: Dbuchanan@agrichemky.com
Phone number: (270) 886-0141
4899 Pembroke Road
Hopkinsville, Kentucky 42236

Jason Outland, Environmental, Health and Safety Director
Agri-Chem LLC
Email: Joutland@agrichemky.com
Phone number: (270) 886-5191
4899 Pembroke Road
Hopkinsville, Kentucky 42236

To EPA: Om P. Devkota, Case Development Officer
Devkota.om@epa.gov
Phone number: (404) 562-8963

Marirose Pratt, Associate Regional Counsel
Pratt.Marirose@epa.gov
Phone Number: (404) 562-9023

U.S EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Shannon L. Richardson, Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960