



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2013 FEB 28 AM 9:47

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2013-0008

This ESA is issued to: E Energy Adams, LLC
At: 13238 East Aspen Road, Adams, Nebraska 68301
for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and E Energy Adams, 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 E Energy Adams, LLC, 13238 East Aspen Road, Adams, Nebraska 68301.

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 27, 2012, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 13238 East Aspen Road, Adams, Nebraska, 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 **\$3,760**.

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 **\$3,760** 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-07-2013-0008, 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:

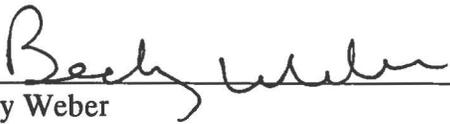
Carl Sitzmann

Date: Jan. 21, 2013

Name (print): CARL SITZMANN

Title (print): CEO
E Energy Adams, LLC

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 2/11/13



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

Date: 2/9/13

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: Feb. 21, 2013

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

E Energy Adams, LLC
13238 East Aspen Road
Adams, Nebraska 68301
Docket No. CAA-07-2013-0008

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

General Requirements [§ 68.12(d)(1)]

No Penalty Assessed

The owner or operator failed develop and implement a management system as provided in § 68.15.

How was this addressed?

DEVELOPED AND IMPLEMENTED MANAGEMENT SYSTEM.

Prevention Program

Process Hazard Analysis[§ 68.67(c)(2)]

\$600

The owner or operator failed to identify an incident dated August 8, 2008, in their process hazard analysis which had a likely potential for catastrophic consequences.

How was this addressed?

UPDATED RMP REPORT (5 YEAR UPDATE) WAS SUBMITTED TO EPA IN OCTOBER OF 2012 AND INCLUDED THE INCIDENT FROM AUGUST 8, 2008.

Prevention Program

Operating Procedures [§ 68.69(d)]

\$900

The owner or operator failed to develop and implement safe work practices to provide for the control of hazards during operations, specifically a Standard Operating Procedure for a line break.

How was this addressed?

LINE BREAK PROCEURES HAVE BEEN INCORPORATED INTO PSM PROGRAM.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

\$1,200

Incident Investigation [§ 68.81(f)]

The owner or operator failed review the investigation report with all affected personnel whose job tasks are relevant to the incident findings including contract employees.

How was this addressed?

ALL INCIDENT INVESTIGATIONS HAVE BEEN UPGRADED TO REQUIRE ALL
AFFECTED PERSONNEL REVIEW THESE REPORTS.

Risk Management Plan

Executive Summary [§ 68.155(f)]

No Penalty Assessed

The owner or operator failed to provide in the RMP an executive summary that includes a brief description of planned changes to improve safety.

How was this addressed?

UPDATED RMP REPORT (5 YEAR UPDATE) WAS SUBMITTED TO EPA IN OCTOBER 2012
AND INCLUDED AN EXECUTIVE SUMMARY FOR PLANNED CHANGES TO IMPROVE SAFETY.

Risk Management Plan [§ 68.195(a)]

\$2,000

Owner or operator failed to correct new accident history information in the RMP within six (6) months of an August 22, 2008, accident.

How was this addressed?

SENT UPDATED INFORMATION TO INCLUDE A COPY OF THE INCIDENT INVESTIGATION
TO EPA. ALSO INCLUDED THIS INFORMATION ON OUR 5 YEAR UPDATE TO THE
RMP.

Total Unadjusted Penalty

\$4,700

Calculation of Adjusted Penalty

- 1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and row for >5-10 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 E Energy Adams, LLC = 0.8.
- 2nd Adjusted Penalty = \$4,700 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier) = \$3,760.
- 3rd An Adjusted Penalty of \$3,760 would be assessed to E Energy Adams, LLC, for violations found during the RMP Compliance Inspection.

Total Adjusted Penalty **\$3,760**

This section must be also be completed and signed by E Energy Adams, LLC:

The approximate cost to correct the above items: \$ 4,500.00

Compliance staff name: JOE OSWALT

Signed:  Date: 16 JAN 13

IN THE MATTER OF E Energy Adams, LLC, Respondent
Docket No. CAA-07-2013-0008

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 hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
11201 Renner Blvd.
Lenexa, Kansas 66219

Copy by First Class Mail to:

Carl Sitzmann
CEO
E Energy Adams, LLC
13238 East Aspen Road
Adams, Nebraska 68301

Dated: 2/28/13


Kathy Robinson
Hearing Clerk, Region 7