



EXPEDITED SPCC SETTLEMENT AGREEMENT - 9 AM 9: 54
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7, 11201 RENNER BOULEVARD, LENEXA, KANSAS 66219

DOCKET NO. CWA-07-2014-00007 ⁰⁰⁰⁷ _{HR}

On: May 10, 2012

At: 430 East Oak Street, Columbus, Kansas

Owned or operated by, Midwest Fertilizer (Respondent), an authorized representative of the U.S. Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act (33 U.S.C. 1321(j)) (the Act), and found that Respondent had violated regulations implementing Section 311(j) of the Act by failing to comply with the regulations as noted on the attached SPILL PREVENTION CONTROL AND COUNTERMEASURES INSPECTION FINDINGS, ALLEGED VIOLATIONS, AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference.

This proceeding and the Expedited Settlement are under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. 112.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$4650.

This settlement is subject to the following terms and conditions:

The EPA finds that Respondent is subject to the SPCC regulations, which are published at 40 C.F.R. Part 112, and has violated the regulations as further described in the Form. Respondent admits that he/she is subject to 40 C.F.R. Part 112 and that the EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections it may have to the EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected and Respondent has sent a certified check in the amount of \$4650, payable to the "Environmental Protection Agency," via certified mail to:

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, Missouri 63197-9000

and Respondent has noted on the penalty payment check Docket No. CWA-07-2014-00007- and "OSLTF - 311." The original, signed Settlement Agreement and copy of the penalty payment check must be sent via certified mail to:

Mark Aaron
U.S. Environmental Protection Agency
Region 7, AWMD/STOP
11201 Renner Boulevard
Lenexa, Kansas 66219

This Expedited Settlement resolves Respondent's liability for Federal civil penalties for the violations of the SPCC regulations described in the Form. However, the EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Respondent of the SPCC regulations or of any other federal statute or regulations. By its first signature, the EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

Upon signing and returning this Expedited Settlement to the EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to the EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

Margaret Skelton Date 5/29/14
Chief, Storage Tanks & Oil Pollution Branch (STOP)
Air & Waste Management Division (AWMD)

APPROVED BY RESPONDENT:

Name (print): Rod Silver
Title (print): Pres
Signature: [Signature]
Date: 5-19-14

4650
The estimated cost for correcting the violation(s) is:
\$ This Location was dismantled on 5-19-2014 (OUT OF SERVICE)

IT IS SO ORDERED:

Karina Borromeo Date 6-9-14
Karina Borromeo
Regional Judicial Officer

**Spill Prevention Control and Countermeasure Inspection
Findings, Alleged Violations, and Proposed Penalty Form**

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 7 under the authority vested in the Administrator of the EPA by Section 311(b)(6)(B)(1) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

Company Name
Midwest Fertilizer, Inc.

Facility Name
Midwest Fertilizer dba Midwest Propane

Address
430 East Oak Street

City
Columbus

State
Kansas

Zip Code
66726

Contact
Chris Newhart

Docket Number 2007 *HC*
CWA-07-2014-00007

Date
May 10, 2012

Facility ID Number
N/A

Inspector's Name
Bjorn Brinkman

EPA Approving Official
Margaret E. Stockdale

Enforcement Contact
Mark Aaron



**Summary of Findings
(Bulk Storage Facilities)**

GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)

(When the SPCC Plan review penalty exceeds \$1,500 enter only the maximum allowable of \$1,500)

- | | | |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| <input type="checkbox"/> | No Spill Prevention Control and Countermeasure Plan 112.3 (\$1,500) | |
| <input type="checkbox"/> | Plan not certified by a professional engineer 112.3(d) (\$450) | |
| <input checked="" type="checkbox"/> | Certification lacks one or more required elements 112.3(d)(1) (\$100) | \$100 |
| <input checked="" type="checkbox"/> | Plan not maintained on site (if manned at least four hrs/day) or not available for review 112.3(e)(1) (\$300) | \$300 |
| <input type="checkbox"/> | No evidence of five-year review of plan by owner/operator 112.5(b) (\$75) | |
| <input type="checkbox"/> | No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential 112.5(a) (\$75) | |
| <input checked="" type="checkbox"/> | Technical changes to the facility require an amendment to the Plan.
Amendment(s) not certified by a professional engineer 112.5(e) (\$150) | \$150 |
| <input type="checkbox"/> | No management approval of plan 112.7 (\$450) | |
| <input checked="" type="checkbox"/> | Plan does not follow sequence of the rule and/or cross-reference not provided 112.7 (\$150) | \$150 |
| <input type="checkbox"/> | Plan does not discuss additional procedures/methods/equipment not yet fully operational 112.7 (\$75) | |

- Plan does not discuss alternative environmental protection to SPCC requirements 112.7(a)(2) (\$200)
- Plan has inadequate or no facility diagram 112.7(a)(3) (\$75)
The diagram should be updated to include the locations and contents of all bulk storage containers.
- Inadequate or no listing of type of oil and storage capacity layout of containers 112.7(a)(3)(i) (\$50)
- Inadequate or no discharge prevention measures 112.7(a)(3)(ii) (\$50) \$50
- Inadequate or no description of drainage controls 112.7(a)(3)(iii) (\$50)
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup 112.7(a)(3)(iv) (\$50)
- Recovered materials not disposed of in accordance with legal requirements 112.7(a)(3)(v) (\$50) \$50
- No contact list & phone numbers for response & reporting discharges 112.7(a)(3)(vi) (\$50) \$50
- Plan has inadequate or no information and procedures for reporting a discharge 112.7(a)(4) (\$100) \$100
- Plan has inadequate or no description and procedures to use when a discharge may occur 112.7(a)(5) (\$150) \$150
- Inadequate or no prediction of equipment failure which could result in discharges 112.7(b) (\$150)
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment 112.7(c) (\$400) \$400
- If claiming impracticability of containment and appropriate diversionary structures:**
- Impracticability has not been clearly denoted and demonstrated in plan 112.7(d) (\$100)
- No contingency plan 112.7(d)(1) (\$150)
- No written commitment of manpower, equipment, and materials 112.7(d)(2) (\$150)
- No periodic integrity and leak testing, if impracticability is claimed 112.7(d) (\$150)
- Plan has no or inadequate discussion of general requirements not already specified 112.7(j) (\$75)

QUALIFIED FACILITY REQUIREMENTS: 112.6

- Qualified Facility: No Self certification 112.6(a) (\$450)
- Qualified Facility: Self certification lacks required elements 112.6(a) (\$100)
- Qualified Facility: Technical amendments not certified 112.6(b) (\$150)
- Qualified Facility: Un-allowed deviations from requirements 112.6(c) (\$100)
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE 112.6(d) (\$350)

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 112.7(e) (\$75)
- Inspections and tests required are not in accordance with written procedures developed for the facility 112.7(e) (\$75)

- No Inspection records were available for review 112.7(e) (\$200)
(Written procedures and/or a record of inspections and/or customary business records)
- Inspection records are not signed by appropriate supervisor or inspector 112.7(e) (\$75)
- Inspection records are not maintained for three years 112.7(e) (\$75)

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and/or facility operations 112.7(f)(1) (\$75)
- No training on discharge procedure protocols 112.7(f)(1) (\$75)
- No training on the applicable pollution control laws, rules and regulations, and/or SPCC plan 112.7(f)(1) (\$75)
- Training records not maintained for three years 112.7(f)(1) (\$75)
- No designated person accountable for spill prevention 112.7(f)(2) (\$75)
- Spill prevention briefings are not scheduled and conducted at least annually 112.7(f)(3) (\$75)
- Plan has inadequate or no discussion of personnel and spill prevention procedures 112.7(a)(1) (\$75)

SECURITY (excluding Production Facilities) 112.7(g)

- Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production 112.7(g)(1) (\$150)
- Master flow and drain valves that permit direct outward flow to the surface are not secured in a closed when in a non-operating or standby status 112.7(g)(2) (\$300)
- Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status 112.7(g)(3) (\$75)
- Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status 112.7(g)(4) (\$75)
- Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism 112.7(g)(5) (\$150)
- Plan has inadequate or no discussion of facility security 112.7(a)(1) (\$75) \$75

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

- Inadequate containment for Loading Area [not consistent with 112.7(c)] 112.7(c) (\$400)
- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin treatment system, or quick drainage system 112.7(h)(1) (\$750)
- Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck 112.7(h)(1) (\$450) \$450

- There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake (\$300) interlock system to prevent vehicular departure before complete disconnect from transfer lines- 112.7(h)(2) \$300
- There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- 112.7(h)(3) (\$150) \$150
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack 112.7(a)(1) (\$75)

QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)

- Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge 112.7(k)(2)(i) (\$150)
- Failure to provide an oil spill contingency plan 112.7(k)(2)(ii)(A) (\$150)
- No written commitment of manpower, equipment, and materials 112.7(k)(2)(ii)(B) (\$150)

FACILITY DRAINAGE 112.8(b) & (c)

- Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge 112.8(b)(1)and(2), and 112.8(c)(3)(i) (\$650)
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision 112.8(c)(3)(ii)and(iii) (\$450)
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained 112.8(c)(3)(iv) (\$75)
- Drainage from undiked areas do not flow into catchment basins ponds or lagoons, or no diversion system to retain or return a discharge to the facility 112.8(b)(3)and(4) (\$450)
- Two "lift" pumps are not provided for more that one treatment unit 112.8(b)(5) (\$50)
- Plan has inadequate or no discussion of facility drainage 112.7(a)(1) (\$75)

BULK STORAGE CONTAINERS 112.8(c)

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$75)
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture 112.7(i) (\$300)
- Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature 112.8(c)(1) (\$450)
- Secondary containment appears to be inadequate 112.8(c)(2) (\$750) \$750
- Containment systems, including walls and floors, are not sufficiently impervious to contain oil 112.8(c)(2) (\$375)
- Excessive vegetation which affects the integrity (\$150)
- Walls of containment system slightly eroded or have low areas (\$300)
- Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing 112.8(c)(4) (\$150)

- Partially buried tanks do not have buried sections protected from corrosion 112.8(c)(5) (\$150)
- Aboveground tanks are not subject to visual inspections 112.8(c)(6) (\$450)
- Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc. 112.8(c)(6) (\$450) \$450
- Records of inspections (or customary business records) do not include inspections of tank supports, foundation, deterioration, discharges and/or accumulations of oil inside diked areas 112.8(c)(6) (\$75)
- Steam return/exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer or other separation system 112.8(c)(7) (\$150)
- Tank battery installations are not in accordance with good engineering practice because none of the following are present 112.8(c)(8) (\$450)
- No testing of liquid level sensing devices to ensure proper operation 112.8(c)(8)(v) (\$75) \$75
- Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills 112.8(c)(9) (\$150)
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected 112.8(c)(10) (\$450) \$450
- Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water 112.8(c)(11) (\$150) \$150
- Secondary containment inadequate for mobile or portable storage tanks 112.8(c)(11) (\$500)
- Plan has inadequate or no discussion of bulk storage tanks 112.7(a)(1) (\$75)

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)

-
- Buried piping is not corrosion protected with protective wrapping, coating or cathodic protection protection 112.8(d)(1) (\$150)
 - Corrective action is not taken on exposed sections of buried piping when deterioration is found 112.8(d)(1) (\$450)
 - Not-in-service or standby piping is not capped or blank-flanged and marked as to origin 112.8(d)(2) (\$75) \$75
 - Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction 112.8(d)(3) (\$75) \$75
 - Aboveground valves, piping and appurtenances are not inspected regularly 112.8(d)(4) (\$300)
 - Periodic integrity and leak testing of buried piping is not conducted 112.8(d)(4) (\$150)
 - Vehicle traffic is not warned of aboveground piping or other oil transfer operations 112.8(d)(5) (\$150)
 - Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process 112.7(a)(1) (\$75)
 - Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(c) (\$150) \$150
(Do not use this if FRP subject; go to traditional enforcement)

TOTAL \$4,650

IN THE MATTER Of Midwest Fertilizer, Respondent
Docket No. CWA-07-2014-0007

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 by First Class Mail to Respondent:

Rod Silver, President
Midwest Fertilizer
430 East Oak Street
Columbus, Kansas 66726

Dated: 6/9/14



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7