



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

Enclosure 1

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HEARINGS CLERK
EPA - REGION 10

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2017-0071
This ESA is issued to: RainSweet, Inc., East Plant
1460 Sunnyview Road NE
Salem, Oregon 97301-0631

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, 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 Summary for the total penalty amount of **\$3,960**.

This settlement is subject to the following terms and conditions:

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 Summary, 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. 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 Respondent has corrected the violations listed in the enclosed Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$3,960 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, MO 63197-9000

The docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

This original ESA and a copy of the check must be sent by certified mail to:

Javier Morales, EPA RMP Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101
Seattle, Washington 98101

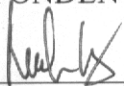
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA at the above address by 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 Summary.

This ESA is binding on the parties signing below.

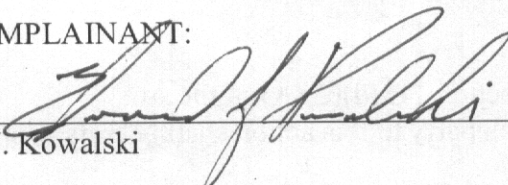
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: 
Name (print): Mark May
Title (print): President
Cost to correct violation(s): Estimated \$ 350,000

Date: 5/22/17

FOR COMPLAINANT:


Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 5/25/2017

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

M. Socorro Rodriguez
Regional Judicial Officer

Date: _____

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

The docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

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Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101
Seattle, Washington 98101

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA at the above address by 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 Summary.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: [Handwritten Signature]
Name (print): Mark May
Title (print): President
Cost to correct violation(s): Estimated \$ 350,000

Date: 5/22/17

FOR COMPLAINANT:

[Handwritten Signature]
Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 5/25/2017

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

[Handwritten Signature]
M. Socorro Rodriguez
Regional Judicial Officer

Date: 5/31/17

Rain Sweet, Inc, East Plant
1460 Sunnyview Rd, NE
Salem, OR 97301-0631



U.S. ENVIRONMENTAL PROTECTION AGENCY

Enclosure 2

Risk Management Program Inspection Findings and Alleged Violations Summary
Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

Facility Name: RainSweet Inc., East Plant
Facility Location: 1460 Sunnyview Road NE, Salem, OR
Mailing Address: 1460 Sunnyview Road NE, Salem, OR
Responsible Official: Kevin Hofstetter, Plant Manager, (503) 932-3490
Facility Representative: Mark May, President
Inspection Start Date: May 6, 2016 8:30 am
Inspection End Date: May 6, 2016 12:20 pm
EPA Facility ID#: 1000 0011 6199
Inspector Name(s): Terry Garcia, Bob Hales, Peter Phillips, David Magdangal

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 C.F.R. § 68)? [X] YES [] NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185? [] YES [] NO
DATE RMP FILED WITH EPA: 06/22/1999
DATE OF LATEST RMP UPDATE: 03/12/2013
1) PROCESS/NAICS CODE: 311411
REGULATED SUBSTANCE: Anhydrous Ammonia
PROGRAM LEVEL: 1 [] 2 [] 3 [X]
MAX. QUANTITY IN PROCESS: 32,000 (lbs)

DESCRIPTION OF ALLEGED VIOLATIONS

- CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance...
1. RainSweet Inc. failed to document that the equipment complies with recognized and generally accepted good engineering practices...
2. RainSweet Inc. process safety information failed to contain information on the relief system design and design basis for the ammonia storage process...
3. RainSweet Inc. failed to retain the process hazard analyses for the ammonia refrigeration process...
4. RainSweet Inc. failed to correct deficiencies in equipment that were outside acceptable limits...
5. RainSweet Inc. failed to certify that they have evaluated compliance with the provisions of 40 C.F.R. § 68, Subpart D – Program 3 Prevention Program...

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

6. RainSweet Inc. failed to promptly determine and document an appropriate response to each of the findings of the compliance audit and documented that deficiencies have been corrected as required by 40 C.F.R. § 69.79(d). RainSweet Inc.'s 2013 PSM/RMP Compliance Audit Report, no date, identified findings in Process Safety Information, Mechanical Integrity, and Contractors with schedule completion dates that are within or beyond the next compliance audit due in December 2016. For example, the Mechanical Integrity, Action Item C.29, due December 1, 2016. In addition, RainSweet Inc.'s 2010 PSM/RMP Compliance Audit Report, (no date) had similar findings that were identified in 2013 report that were documented as complete. For example, the Mechanical Integrity, Action Item C.29, had a completion date of June 30, 2012.
7. RainSweet Inc. failed to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in as required by 40 C.F.R. § 68.87(b)(5) and as required by 68.87(c)(1) - (c)(5). RainSweet Inc.'s 2013 PSM/RMP Compliance Audit Report, no date, identified a finding that states "Contractors stating that RainSweet Inc., does not currently instruct contractors to advise them of the unique hazards presented or discovered by the contractor's work. According to interviews conducted by RainSweet Inc., the contractors are generally good about reporting hazards, but their contractor program is not following 68.87(c)(5)." Reference 2013 CA; Employer/Contractor Responsibilities Item # F 3.5, page 7.

The following area of concern was observed during the RMP inspection:

Corrosion and damaged insulation were observed on the process equipment such as piping on the roof above the engine room. Process equipment conditions such as corrosion and damaged insulation could lead to a potentially significant ammonia release during operations if unaddressed. The EPA understands that RainSweet Inc. utilized an ammonia refrigeration contractor, PermaCold Engineering Inc., to conduct a Mechanical Integrity Audit in 2013 to address the process equipment conditions that were observed during the inspection. RainSweet Inc. should provide a maintenance schedule on when these process equipment conditions will be completed and have been corrected.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1 PROCESS CHECKLIST PROGRAM LEVEL 2 PROCESS CHECKLIST PROGRAM LEVEL 3 PROCESS CHECKLIST

OTHER ATTACHMENTS: _____

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: RainSweet, Inc., Docket No.: CAA-10-2017-0071**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, OCE-101
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mr. Mark May, President
RainSweet Inc.
1460 Sunnyview Road NE
Salem, Oregon 97301-0631

DATED this 31 day of May, 2017

Teresa Young
Teresa Young
Regional Hearing Clerk
EPA Region 10