



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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7  
2015 NOV 16 PM 12:02

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2015-0037

**This ESA is issued to:** Ackley Fertilizer Sales

**At:** 33836 Hwy 57, Ackley, IA 50601

**for violating Section 112(r)(7) of the Clean Air Act.**

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The United States Environmental Protection Agency, Region 7 (EPA) and Ackley Fertilizer Sales (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 EPA, is the Director of the Air, and Waste Management Division. The Respondent is Ackley Fertilizer Sales, 33836 Hwy 57, Ackley, IA 50601.

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 May 21, 2015, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 33836 Hwy 57, Ackley, Iowa, 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 **\$4,800**.

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 **\$4,800** 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-07-2015-0037, 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:

Krystal Stotts  
Chemical Risk Information Branch  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Blvd  
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:

(Sign) Jason W Hunt

Date: 10-22-2015

Name (print): Jason W Hunt


Title (print): Owner  
Ackley Fertilizer Sales

FOR COMPLAINANT:



Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 11/12/15



~~Kent Johnson~~ RAYMOND C. BOSCH  
Assistant Regional Counsel  
Office of Regional Counsel  
EPA Region 7

Date: 11-12-2015

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: 11-16-15

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

Ackley Fertilizer Sales  
33836 Highway 57  
Ackley, Iowa 50601  
Docket No. CAA-07-2015-0037

**COMPLETE THIS FORM AND RETURN IT WITH THE ESA.**

**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program

\$1,500

Safety Information [§ 68.48(b)]

The owner or operator failed to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices per 40 CFR 68.48(b). Specifically, the facility did not have adequate piping support as required per CGA G2.1-2014 Section 5.6.3 (formerly ANSI K61.1-1999).

*How was this addressed:*

*Midwest Meter located in Hampton, IA has been contacted to review and complete any work to comply with CGA G2.1-2014 Section 5.6.3. Work is expected to be completed by end of 2015, weather permitting.*

Prevention Program

\$300

Hazard Review [§ 68.50(a)(1)]

The owner or operator failed to complete a Hazard Review which identified all hazards associated with the process and regulated substances per 40 CFR 68.50(a) (1). Specifically, question #9 on page two of the hazard review was left blank.

*How was this addressed:*

*Question #9 on page two has been completed to reflect the need for testing of underground piping. Midwest Meter located in Hampton, IA has been contacted to complete several updates to piping. Completion of work is expected to be completed by end of 2015 weather permitting. Page 9 of Hazard Review has been updated to reflect corrective actions.*

Prevention Program

\$300

Compliance Audits [§ 68.58(d)]

The owner or operator failed to determine and document an appropriate response to the finding of the compliance audit and document that the deficiency has been corrected as required per 40 CFR 68.58(d).

**VIOLATIONS**

**PENALTY AMOUNT**

How were these addressed:

*Midwest Meter has been contacted to review and determine how to ~~correct~~ repair & extend Saddles as indicated in Compliance Audit. Work is expected to be completed by end of 2015.*

Prevention Program

\$900

Emergency Response [§ 68.90(b)(1)]

The owner or operator failed to ensure that their stationary source is included in the community emergency response plan for Harding County as required per 40 CFR 68.90(b)(1).

How was this addressed:

*A copy of our submittal was provided to the Northeast Iowa Regional Emergency Planning District via email to Ken Rasing @ chiras @ iowatelecom.net.*

Prevention Program

\$1000

Risk Management Plan [§ 68.195(b)]

The owner or operator failed to update the emergency contact information in the RMP within thirty days of a change as required per 40 CFR 68.195(b).

How was this addressed:

*Emergency Contact was updated to reflect Jason Hunt as emergency contact in section 1.00 of the Registration Information.*

Prevention Program

\$2000

Risk Management Plan [§ 68.190(b)(1)]

The owner or operator failed to revise and update the RMP at least every five years from the date of its most recent update required per 40 CFR 68.190(b)(1).

How was this addressed:

*The Risk management Plan submittal was completed on 06/26/2015.*



**VIOLATIONS**

**PENALTY AMOUNT**

Total Unadjusted Penalty

\$6,000

**Ackley Fertilizer Sales is a private company which has 2 full time employees, 175,079 pounds of Anhydrous Ammonia. After adding the penalty numbers in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet an unadjusted penalty of \$6,000 is derived.**

**Calculation of Adjusted Penalty**

1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for number of employees 0-9 and column for >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 Ackley Fertilizer Sales = 0.8.

2<sup>nd</sup> Adjusted Penalty = \$6,000 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier)  
Adjusted Penalty = \$4,800.

3<sup>rd</sup> An Adjusted Penalty of \$4,800 would be assessed to Ackley Fertilizer Sales for violations found during the RMP Compliance Inspection. This amount will be found in the ESA.

**Total Adjusted Penalty**

**\$4,800**

**This section must be also be completed and signed by Ackley Fertilizer Sales:**

The approximate cost to correct the above items: \$ 19,000-15,000

Compliance staff name: Jason W Hurst

Signed: Jason W Hurst Date: 10-22-15



IN THE MATTER OF Ackley Fertilizer Sales, Respondent  
Docket No. CAA-07-2015-0037

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 by email to Attorney for Complainant:

hoard.christine@epa.gov

Copy by email to:

Jason W. Hunt, Owner  
Ackley Fertilizer Sales  
33836 Highway 57  
Ackley, Iowa 50601

Dated: 11/16/15



Kathy Robinson  
Hearing Clerk, Region 7

