



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY: 20
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2017-0213

This ESA is issued to: J.R. Simplot Company d/b/a Goodland Simplot Grower Solutions
At: 6415 Road 21, Goodland, Kansas 67735
for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and J.R. Simplot Company d/b/a Goodland Simplot Grower Solutions (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 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. Respondent is J.R. Simplot Company d/b/a Goodland Simplot Grower Solutions, 6415 Road 21, Goodland Kansas 67735.

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 policies entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68," dated January 5, 2004, and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," dated December 20, 2013, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On March 21, 2017, an authorized representative of the EPA conducted a compliance inspection of Respondent's facility located at 6415 Road 21, Goodland, Kansas, to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Chemical Accident Prevention Provisions Inspection Findings (CAPP 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 CAPP Findings, for the total penalty amount of **\$1,680**.

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 CAPP 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 Respondent has corrected the violations listed in the enclosed CAPP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$1,680** 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-07-2017-0213, and must be included on the check.

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

Christine Hoard
Chemical & Oil Release Prevention Branch
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, EPA will take no further civil action against Respondent for the alleged violations of the CAA referenced in the CAPP 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 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 CAPP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:




Date: 8/15/17

Name (print): Jeremy Drescher

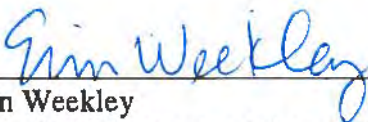
Title (print): Retail Operations Manager
J.R. Simplot Company d/b/a
Goodland Simplot Grower Solutions

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 8/29/17



Erin Weekley
Chemical Management Branch Chief
Office of Regional Counsel
EPA Region 7

Date: 8/30/17

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: Aug. 30, 2017

Chemical Accident Prevention Provisions Inspection Findings
CAA § 112(r) Violations

J.R. Simplot Company d/b/a
Goodland Simplot Grower Solutions
6415 Road 21
Goodland, Kansas 67735
Docket No. CAA-07-2017-0213

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Updates

Risk Management Plan

Emergency Response Program [40 CFR 68.180]

No penalty assessed

The owner or operator failed to submit an RMP that correctly included the information required regarding the emergency response program. (Section 9)

Facility addressed this post inspection.

Prevention Program

Safety Information [40 CFR 68.48(a)(5)]

\$300

The owner or operator failed to compile and maintain codes and standards used to design, build, and operate the process.

How was this addressed:

As noted in the inspection report 6565 documentation referenced ANSI Standard K661-1999. This was an old version of the document it has been updated with the current document referencing ANSI/ISA 6-2.1-2014

Safety Information [40 CFR 68.48(b)]

\$1,500

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted and good engineering practices.

How was this addressed (NH3 storage vessel lacked adequate vehicle barriers):

Additional barriers were installed as requested.

Prevention Program

Hazard Review [40 CFR 68.50(c)]

\$300

The owner or operator failed to document the results of the Hazard Review.

Facility addressed this post inspection.

Prevention Program

Compliance Audits [40 CFR 68.58(a)]

No penalty assessed

The owner or operator failed to *certify* that it has evaluated compliance with the provisions of this subpart at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed.

Facility addressed this post inspection.

Total Unadjusted Penalty

\$2,100

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 0-9 employees and the row 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 J.R. Simplot Company d/b/a Goodland Simplot Grower Solutions = 0.8.

2nd Adjusted Penalty = \$2,100 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier)
Adjusted Penalty = \$1,680

3rd An Adjusted Penalty of \$1,680 would be assessed to J.R. Simplot Company d/b/a Goodland Simplot Grower Solutions for Violations found during the CAPP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

Total Adjusted Penalty

\$1,680

Total Penalty

\$1,680

This section must be also completed and signed by J.R. Simplot Company d/b/a Goodland Simplot Grower Solutions:

The approximate cost to correct the above items: \$ 312.39

Compliance staff name: Paul Derig

Signed: Paul ChDerig Date: 08/15/2011