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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7 ENVIRONMENTAL PROTECTION  
901 NORTH 5<sup>TH</sup> STREET AGENCY-REGION VII  
KANSAS CITY, KANSAS 66101 REGIONAL HEARING CLERK

### **EXPEDITED SETTLEMENT AGREEMENT (ESA) <sup>1</sup>**

**DOCKET NO.: CAA-07-2011-0018**

**This ESA is issued to: New Century FS**

**At: 2617 Highway 8E, Traer, Iowa 50675**

**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 New Century FS (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 New Century FS, 2617 Highway 8E, Traer, Iowa 50675.

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 October 26, 2010, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 2617 Highway 8E, Traer, 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 **\$2,500**.

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 **\$2,500** 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-07-2011-0018, 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  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

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 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:


Steve Gerard

Date: 08/19/2011

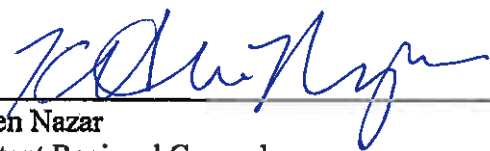
Name (print): Steve Gerard

Title (print): Safety Director  
New Century FS

FOR COMPLAINANT:

  
\_\_\_\_\_  
Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 8/26/11

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

Date: 8/26/11

In the Matter of Gage's New Century FS  
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I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: Sept. 1, 2011

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

New Century FS  
2617 Highway 8E  
Traer, Iowa 50675  
Docket No. CAA-07-2011-0018

**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 the process is designed in compliance with recognized and generally accepted good engineering practices. Specifically, vehicle barriers to protect piping and tank are not securely anchored to ground allowing them to move if struck and rust is developing on tank.

*How was this addressed:*

*Please see attached letter.*

Risk Management Plan

\$1,000

Required Corrections [§ 68.195(b)]

The owner or operator failed to up-date the emergency contact information in the RMP within one month.

*How was this addressed:*

*Please see attached letter.*

Total Unadjusted Penalty

\$2,500

**Calculation of Adjusted Penalty**

1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. The RMP indicates the facility has 12 employees and 213,000 pounds of anhydrous ammonia. Finding the row for number of employees 10-100 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 1.0. Therefore, the multiplier for New Century FS = 1.0.

2<sup>nd</sup> Adjusted Penalty = \$2,500 (Unadjusted Penalty) X 1.0 (Size-Threshold Multiplier)  
Adjusted Penalty = \$2,500.

3<sup>rd</sup> An Adjusted Penalty of \$2,500 would be assessed to New Century FS for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

**Total Adjusted Penalty** **\$2,500**

**This section must be also be completed and signed by New Century FS:**

The approximate cost to correct the above items: \$ 55,200.00

Compliance staff name: Steve Gerard

Signed: Steve Gerard Date: 08/19/2011





# NEW CENTURY FS

1017 Ogan Avenue P.O. Box 761 • Grinnell, Iowa 50112-0761 • (641) 236-3117  
Fax (641) 236-5363 • Toll free 1-888-488-3737

New Century FS response to United States Environmental Protection Agency  
RE: Expedited Settlement Agreement for Risk Management Program Inspection Findings  
Docket No. CAA-07-2011-0018

Prevention Program  
Safety Information

Concrete barriers previously used have been removed and vehicle impact protection meeting International Fire Code, Section 312, has been installed. These are 4" diameter steel pipe filled with concrete. Pipes are not more than 4 feet apart. Pipes are not less than 3 feet deep in concrete footing 15 inches in diameter. Pipes are located not less than 3 feet from protected object. Pipes extend above the ground a minimum of 36 inches.

The entire anhydrous ammonia tank has been repainted and all required information on the tank has been replaced with new.

Risk Management Plan

Duties of Environmental, Safety and Regulatory were part of the duties of the Operations Manager. These duties have been moved from the Operation Manager and are now taken care of by a new full time position for Environmental, Safety and Regulatory Director. RMP's are now more closely monitored and updated on regular bases. Information that requires periodic updating has been entered into GROWMARK's FSIRS data page so continued reminders can be received to keep the RMP'S current.

Approximant cost to correct items;

Vehicle protection, \$5,200.00

Full time Environmental, Safety and Regulatory Director, \$50,000

Sincerely, Steve Gerard

IN THE MATTER OF New Century FS, Respondent  
Docket No. CAA-07-2011-0018

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) 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  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Steve Gerard, Safety Director  
New Century FS  
2617 Highway 8E  
Traer, Iowa 50675

Dated: 9/1/11



Kathy Robinson  
Hearing Clerk, Region 7