



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 7  
901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101  
**EXPEDITED SETTLEMENT  
AGREEMENT(ESA)**

06 MAR -9 AM 9:27

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**DOCKET NO: CAA-07-2006-0070**

**This ESA is issued to: Farmland Foods, Inc.**

**At: 2323 South Sheridan, Wichita, Kansas 67213**

**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 Farmland Foods, Inc., 2323 South Sheridan, Wichita, Kansas (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, RCRA, and Toxics Division. The Respondent is Farmland Foods, Inc. 2323 South Sheridan, Wichita, Kansas.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

**ALLEGED VIOLATIONS**

On January 11, 2005, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 2323 South Sheridan, Wichita, Kansas, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (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 \$ 3,450.00.

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 in 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 Clean Air 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 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 "Treasurer, United States of America") in the amount of \$ 3,450.00 in payment of the full penalty amount to the following address:

Mellow Bank  
U.S. EPA Region 7  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251.

The DOCKET NUMBER OF THIS ESA, is CAA-07-2006-0070, 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:

Julie M. Van Horn  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
901 North Fifth 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 Clean Air Act referenced in the RMP Findings. EPA does not waive 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 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:

  
\_\_\_\_\_

Date: 2/20/2006

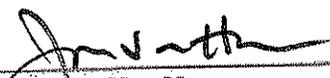
Name (print): Randy Dalingshaus

Title (print): Plant Manager  
Farmland Foods, Inc.

FOR COMPLAINANT:

  
\_\_\_\_\_  
William A. Sprafkin  
Director  
Air, RCRA, and Toxics Division  
EPA Region 7

Date: 3/3/06

  
\_\_\_\_\_  
Julie M. Van Horn  
Senior Assistant Regional Counsel  
EPA Region 7

Date: 6 March 2006

In the Matter of  
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IT IS SO ORDERED. This Order shall become effective immediately.

Karina Borromeo

Karina Borromeo  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region VII

March 9, 2006

Date

## Risk Management Program Inspection Findings

Farmland Foods, Inc.  
2323 South Sheridan  
Wichita, Kansas

PLEASE COMPLETE AND COPY THIS FORM AND RETURN IT WITH THE ESA

### VIOLATIONS

### PENALTY AMOUNT

#### Process Safety Information

68.65(d)(1)(iv) - Information pertaining to the equipment in the process; relief system design and design basis. \$300.00

68.65(d)(1)(v) - Information pertaining to the equipment in the process; ventilation system design. \$300.00

68.65(d)(1)(viii) - Information pertaining to the equipment in the process; Safety systems. \$300.00

How were these addressed: The relief system design, design basis, and ventilation system design were calculated and documented. The safety systems were documented.

#### Process Hazard Analysis

68.67(a) - owner or operator performed an initial process hazard analysis (PHA), and has this analysis identified, evaluated and controlled the hazards involved in the process. \$750.00

How was this addressed: The initial PHA was completed in 2001.

68.67(e) - owner or operator shall establish a system to promptly address the team's findings and recommendation; assured that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations. \$750.00

How was this addressed: These requirements were added to the PHA procedures. Documentation for the current PHAs has been completed. A system is in place for scheduling and documenting follow-up activities.

**Emergency Response Program**

68.95(a) – owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment. Such program shall include the following elements:

68.95(a)(1)(i) – procedures for informing the public and local emergency response agencies about accidental releases. \$375.00

68.95(a)(1)(ii) – documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures. \$375.00

*How were these addressed: Facility met with local emergency officials February 2 to discuss procedures for required notifications. These procedures have been incorporated into the emergency response plan. The ammonia MSDS, which addresses first aid and emergency medical treatment also has been added to the emergency response plan.*

**Management**

68.15(h) – owner or operator shall assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements. \$300.00

*How was this addressed: An RMP management structure was developed. Part of this structure includes assigning a position for overall responsibility.*

PLEASE PROVIDE THE COST TO THE FACILITY TO CORRECT THE VIOLATIONS

*\$9,200*

Calculation of Adjusted Penalty

<sup>1st</sup> Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for >100 employees and the row for >10 times the threshold quantity amount gives a multiplier factor of 1. Therefore, the multiplier for Farmland Foods, Inc. = 1

*\*\*No adjusted penalty since multiplier is 1.*

TOTAL

\$3,450

OTHER VIOLATIONS THAT NEED TO BE ADDRESSED

**Operating Procedures**

68.69(c) – owner or operator shall certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary.

*How was this addressed:*

All SOPs were reviewed and certified. Procedures were put in place to ensure this occurs annually

IN THE MATTER OF Farmland Foods, Inc., Respondent  
Docket No. CAA-07-2006-0070

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:

Julie M. Van Horn  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail/Return Receipt to:

Randy Dalinghaus  
Plant Manager  
2323 South Sheridan  
Wichita, Kansas 67213

3/9/06  
Dated

  
\_\_\_\_\_  
Kathy Robinson  
Regional Hearing Clerk