



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8 2019 SEP 26 PM 12:35

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CAA-08-2019-0014

IN THE MATTER OF:

PRODUCERS COOP, LLC

RESPONDENT

)  
)  
)  
)  
)  
)  
)  
)  
)

FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 26<sup>th</sup> DAY OF September, 2019.

Katherin E. Hall  
Katherin E. Hall  
Regional Judicial Officer



8. Respondent failed to ensure that each employee presently involved in operating a process, and each employee newly assigned to a covered process have been trained or tested competent in the operating procedures provided in § 68.52 that pertain to their duties as required by 40 C.F.R. § 68.54(a).
9. Respondent failed to promptly determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected as required by 40 C.F.R. § 68.58(d).
10. Respondent failed to update the RMP submitted under § 68.150 at least once every five years from the date of its initial submission as required by 40 C.F.R. § 68.190(b)(1). The RMP submission was due by May 6, 2019, but not submitted until May 21, 2019.

#### SETTLEMENT

11. In consideration of the factors contained in section 113(d)(1) of the Act and the entire record, the parties enter into this ESA in order to settle the violations referenced above for a civil penalty amount of \$3,040.00.
12. This settlement is subject to the following terms and conditions with respect to the violations referenced above:
  - a. Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in this ESA, and consents to the assessment of the penalty as stated above.
  - b. 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.
  - c. Each party to this action shall bear its own costs and attorney fees, if any.
  - d. Respondent waives any and all available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
13. By signing this ESA Respondent certifies that: (1) the alleged violations listed in paragraphs 8 through 10 have been corrected, and (2) Respondent is submitting payment of the civil penalty as described below.

Within **two** days of receipt of this ESA, Respondent must send a cashier's check or certified check (payable to "Treasurer, United States of America") in the amount of \$3,040.00 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 following Payment Tracking Number for this ESA must be included on the check:  
ESA-R8-CAA-2019-002**

**The signed ESA and a copy of the check must be sent by certified mail to:**

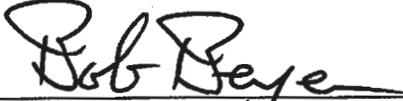
Dan Webster  
RMP/EPCRA Technical Enforcement Program  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street [8ENF-AT-P]  
Denver, Colorado 80202-1129

14. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
15. Once the Respondent receives a copy of the Final Order and pays in full the penalty assessment described above, the EPA agrees not to take any further civil administrative penalty action against Respondent for the violations alleged in this ESA.
16. This ESA does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this ESA is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to, the following:
  - a. claims based on a failure by Respondent to meet a requirement of this ESA including any claims for costs which are caused by the Respondent's failure to comply with this Agreement:
  - b. claims based on criminal liability: and
  - c. claims based on any other violations of the Act or federal or state law.
17. If the signed original ESA with an attached copy of the check is not returned to the EPA Region 8 office at the above address in correct form by Respondent within **two** days of the date of Respondent's receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.
18. This ESA, upon incorporation into the Final Order, applies to and is binding upon the EPA and Respondent and Respondent's successors and assigns. Any change in ownership or business organization of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this ESA. This ESA contains all terms of the settlement agreed to by parties.
19. Nothing in this ESA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

20. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this ESA and to bind Respondent to the terms and conditions of this ESA.

21. The parties agree to submit this ESA to the Regional Judicial Officer with a request that it be incorporated into a final order.

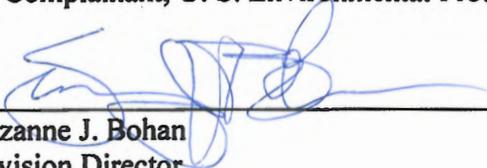
For Respondent, Producers COOP:



Date: 9/24/2019

Name (Print) Bob Beyer  
Title (Print) General Manager

For Complainant, U. S. Environmental Protection Agency, Region 8:



Date: 9/25/19

Suzanne J. Bohan  
Division Director  
Enforcement and Compliance  
Assurance Division

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT and FINAL ORDER** in the matter of **PRODUCERS COOP, LLC; DOCKET NO.: CAA-08-2019-0014** was filed with the Regional Hearing Clerk on September 26, 2019.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Shaula Eakins, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on September 26, 2019, to:

Respondent

Robert Anderson, Safety Manager  
Producers COOP, Olathe NH3 Plant  
PO Box 525  
Olathe, Colorado 81425

And emailed to:

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

September 26, 2019

  
Elizabeth Archer  
Acting Regional Hearing Clerk