



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2008-0037

This ESA is issued to: United Cooperatives, Inc.
At: 4514 W. Highway 116, Plattsburg, Missouri 64477
for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and United Cooperatives, Inc., 4514 W. Highway 116, Plattsburg, Missouri 64477 (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 United Cooperatives, Inc., 4514 W. Highway 116, Plattsburg, Missouri 64477.

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 May 28, 2008, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 4514 W. Highway 116, Plattsburg, Missouri 64477, 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. The 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 **\$2,400**.

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 "United States Treasury") in the amount of **\$2,400** 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-07-2008-0037, 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:

Deanna Smith
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 North 5th 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 5th 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. The 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:

Frank Pianalto

Date: 10-06-08

Name (print): Frank Pianalto

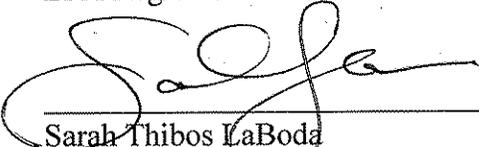
Title (print): Gen Mgr
United Cooperatives, Inc.

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 10/14/09



Sarah Thibos LaBoda
Assistant Regional Counsel
EPA Region 7

Date: 10/9/08

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

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date: Oct. 20, 2008

Risk Management Program Inspection Findings

United Cooperatives, Inc.
4514 W. Highway 116
Plattsburg, Missouri 64477

CAA § 112(r) Violations

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Safety Information

The owner or operator failed to compile and maintain up-to-date safety information related to the regulated substances, processes, and equipment [§ 68.48(a)]:

- Maximum intended inventory of equipment in which the regulated substances are stored or processed. [§ 68.48(a)(2)] \$150
- Codes and standards used to design, build, and operate the process. [§ 68.48(a)(5)] \$150

How was this addressed:

We are currently using and following the ANSI-K 61.1 - 1989

(ASME-CODES AND STANDARDS)

Prevention Program

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. \$750

How was this addressed:

Using my RMP (Risk Management Plan) for guidance and following the ANSI-K 61.1 codes and standards to insure we are compliant with good accepted engineering practices.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Safety Information [§ 68.48(c)]

The owner or operator failed to update the safety information if a major change occurs that makes the information inaccurate.

\$750

How was this addressed:

We have updated my RMP (Risk Management Plan) to include the latest version of the Anhydrous Ammonia MSDS, updated our Maximum inventory work sheet and also update my RMP submit with the Chemical Emergency Preparedness and Prevention Office (CEPPO) website. We have also sent a copy of the latest RMP Submit to the local LEPC for their records so they can have our Anhydrous Plant Details for review and their files.

Prevention Program

Hazard Review [§ 68.50(c)]

The owner or operator failed to document the results of the review and ensure that problems identified are resolved in a timely manner.

\$150

How was this addressed:

Have updated and reviewed my Prevention Program with employees and our local First Responders. Have also conducted training and "what if" Hazard Review should crisis occur. We also conduct annual NH3 training classes to insure all employees follow and understand how to safely work with Anhydrous Ammonia.

Prevention Program

Maintenance [§ 68.56(a)]

The owner or operator failed to prepare or implement procedures to maintain the ongoing integrity of the process equipment.

\$600

How was this addressed:

RMP Maintenance program includes , plant inspection reports, NH3 nurse tanks inventory and check off reports, implement reports, maintenance schedules with check off reports, safety information and inventory equipment sheets for our equipment. We are keeping invoices for all replaced parts and dates that the work was completed. All maintenance items are currently up to date.

VIOLATIONS

PENALTY AMOUNT

Emergency Response [§ 68.90(b)(3)]

The owner or operator failed to ensure appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

\$450

How was this addressed:

All appropriate mechanisms are in place. We have had additional training with First responders to insure they understand our responsibilities and we understand their response plan. We have reviewed our RMP to insure we have the current emergency numbers, emergency procedures and location maps. We have also sent the latest version of our RMP submit to our local LEPC for their files.

Risk Management Plan

The owner or operator failed to review, update, or submit the RMP within six months of a change requiring revised PHA or hazard review. [§ 68.190(b)(5)]

\$5,000

The owner or operator failed to complete a revised analysis and submit a revised RMP within six months of a change in processes, quantities stored or handled, or any other aspect that might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more. [§ 68.190(b)(6)]

No Penalty Assessed

The owner or operator failed to update the emergency contact information, beginning June 21, 2004, within one month of any change in the emergency contact information required under § 68.160(b)(6). [§ 68.195(b)]

No Penalty Assessed

How was this addressed:

Our latest RMP submit was updated 6/20/2008 all information is currently up to date. Hazard review has been conducted and revised all previous Emergency Contact Information is updated and copy of our RMP was sent to our local LEPC.

VIOLATIONS

PENALTY AMOUNT

Total Unadjusted Penalty \$8,000

Calculation of Adjusted Penalty

- 1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix for government entities. The number of employees is 12 and the amount of a regulated chemical at the facility is 51,000 pounds of anhydrous ammonia. Finding the row of 6-20 employees and the column for 5-10 times the threshold quantity amount gives a multiplier factor of 0.3.
- 2nd Adjusted Penalty = \$8,000 (Unadjusted Penalty) X 0.3 (Size-Threshold Multiplier) is \$2,400.
- 3rd An Adjusted Penalty of \$2,400 would be assessed to United Cooperatives, Inc., for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL ADJUSTED PENALTY \$2,400

The approximate cost to correct the above items: \$ 6400.00

Compliance staff name: Frank Pianalto

Signed: Frank Pianalto Date: 10-06-08

IN THE MATTER OF Unified Cooperatives, Inc., Respondent
Docket No. CAA-07-2008-0037

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:

Sarah Thibos LaBoda
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Original by Certified Mail Return Receipt to:

Frank Pianalto
General Manager
Unified Cooperatives, Inc.
4514 W. Highway 116
Plattsburg, Missouri 64477

Dated: 10/21/08



Kathy Robinson
Hearing Clerk, Region 7