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Review Board



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

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2017-0001

**This ESA is issued to: Farmers Cooperative - Beatrice
At: 403 South 3rd Street, Beatrice, Nebraska 68310
for violating Section 112(r)(7) of the Clean Air Act.**

The United States Environmental Protection Agency, Region 7 (EPA) and Farmers Cooperative - Beatrice (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. The Respondent is Farmers Cooperative - Beatrice, 403 South 3rd Street, Beatrice, Nebraska 68310.

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 13, 2016, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 403 South 3rd Street, Beatrice, Nebraska 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 **\$1,680**.

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 **\$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-07-2017-0001, 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:

Dave Hensley
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 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:

Douglas D. Salmon, Safety Director

Date: 03-01-2017

Name (print): DOUGLAS D. SALMON

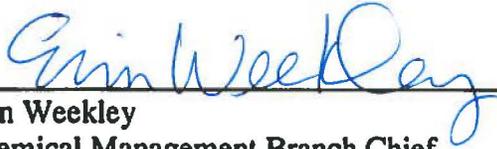
Title (print): SAFETY DIRECTOR
Farmers Cooperative - Beatrice

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 3/23/17



Erin Weekley
Chemical Management Branch Chief

Office of Regional Counsel
EPA Region 7

Date: 3/21/17

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

Karina Borrromeo

Karina Borrromeo
Regional Judicial Officer

Date: March 27, 2017

March 24, 2017

Kenneth Brannan

Risk Management Program Findings
CAA § 112(r)(7) Violations

Farmers Cooperative - Beatrice
403 South 3rd Street
Beatrice, Nebraska 68310
Docket No. CAA-07-2017-0001

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Safety Information [40 C.F.R. 68.48(b)]

No penalty assessed

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

Facility addressed this post inspection.

Maintenance [40 C.F. R. 68.56(d)]

\$900

The owner or operator failed perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience.

How was this addressed: Underground piping leak checks were conducted on 12-15-16 and documentation of these tests were submitted to Mr. Dave Hensley, EPA & Mr. Jim Ford on 12-23-16 via email.

Prevention Program

Compliance Audits [40 C.F.R. 68.58(a)]

\$1,200

The owner or operator failed to *certify* (2013 Compliance Audit) 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.

How was this addressed: Compliance audits were certified by company consultant. In the future audits shall be certified by designated company official.

Total Unadjusted Penalty

\$2,100

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Farmers Cooperative - Beatrice is has by 0-9 employees, but the anhydrous ammonia storage is operated by only 3 employees. Farmers Cooperative - Beatrice reports storage of 490,000 pounds of anhydrous ammonia. 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 Farmers Cooperative - Beatrice = 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 Farmers Cooperative - Beatrice Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

Total Adjusted Penalty

\$1,680

This section must be also be completed and signed by Farmers Cooperative - Beatrice:

The approximate cost to correct the above items: \$ 2,000.00

Compliance staff name: DOUGLAS D. SALMON, SAFETY DIRECTOR

Signed: Douglas D. Salmon Date: 03-01-2017

IN THE MATTER Of Farmers Cooperative - Beatrice, Respondent
Docket No. CAA-07-2017-0001

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via Email to Attorney for Complainant:

rosado-chaparro.wilfredo@epa.gov

Copy via Email and First Class Mail to Respondent:

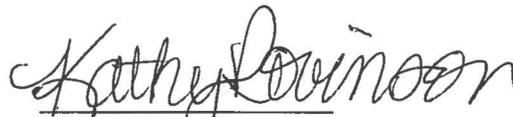
Douglas Salmon, Safety Director

Farmers Cooperative - Beatrice

208 W Depot, PO Box 263

Dorchester, Nebraska 68343-0263

Dated: 3/27/17



Kathy Robinson

Hearing Clerk, Region 7

