



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2011-0020

This ESA is issued to: Mid America Agri Products Wheatland, LLC

At: 76080 Road 338, Madrid, Nebraska 69150

for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and Mid America Agri Products Wheatland, LLC (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 Mid America Agri Products Wheatland, LLC, 76080 Road 338, Madrid, Nebraska 69150.

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 25-26, 2010, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 76080 Road 338, Madrid, 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 **\$3,600**.

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 **\$3,600** 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-07-2011-0020, 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 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:

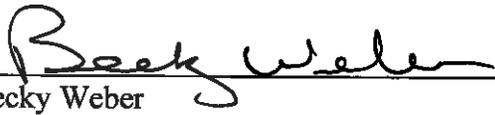


Date: August 16, 2011

Name (print): Michael E. Kluthe

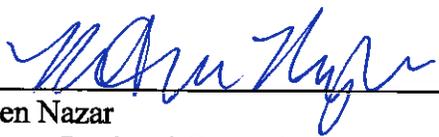
Title (print): General Manager
Mid America Agri Products Wheatland, LLC

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: 8/24/2011

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

Karina Borrromeo
Karina Borrromeo
Regional Judicial Officer

Date: Sept. 1, 2011

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

Mid America Agri Products Wheatland, LLC
76080 Road 338
Madrid, Nebraska 69150
Docket No. CAA-07-2011-0020

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Risk Management Plan
Executive Summary [§ 68.155]
The owner or operator failed to list all six elements in their Executive Summary.

No Penalty Assessed

How was this addressed:

The updated risk management plan was registered November 17, 2010 with the six elements in the executive summary.

Risk Management Plan
Updates [§ 68.190(b)(4)]

\$5,000

The owner or operator failed to update and submit the Risk Management Plan no later than the date on which a regulated substance was first present above threshold quantities in a new process.

How was this addressed:

The first risk management plan was registered March 25, 2008. The updated risk management plan was registered November 17, 2010.

Risk Management Plan
Required Corrections [§ 68.195(b)]

\$1,000

The owner or operator failed to correct the Risk Management Plan within one month of any change in the emergency contact information.

How was this addressed:

The corrected emergency contacts was updated in the risk management plan registered November 17, 2010.

VIOLATIONS

PENALTY AMOUNT

Total Unadjusted Penalty

\$6,000

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix for Private Industries. Finding the row for number of employees 10-100 and column for 1-5 times threshold quantity aqueous ammonia as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 0.6. Therefore, the multiplier for Mid America Agri Products Wheatland, LLC, is 0.6.

2nd Adjusted Penalty: \$6,000 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier) = \$3,600 (Adjusted Penalty)

3rd An Adjusted Penalty of \$3,600 would be assessed to Mid America Agri Products Wheatland, LLC, for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement.

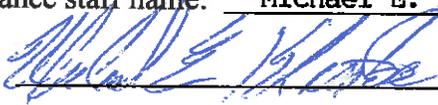
Total Adjusted Penalty

\$3,600

This section must be also be completed and signed by Mid America Agri Products Wheatland, LLC:

The approximate cost to correct the above items: \$ 6,000.00

Compliance staff name: Michael E. Kluthe

Signed:  Date: August 16, 2011

IN THE MATTER OF Mid America Agri Products Wheatland, LLC, Respondent
Docket No. CAA-07-2011-0020

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. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Michael E. Kluth, General Manager
Mid America Agri Products Wheatland, LLC
76080 Road 338
Madrid, Nebraska 69150

Dated: 9/1/11


Kathy Robinson
Hearing Clerk, Region 7