



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2015 MAR 30 AM 10:48

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2015-0013

This ESA is issued to: Big River United Energy, LLC

At: 3294 Vine Road, Dyersville, Iowa 52040

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

The United States Environmental Protection Agency, Region 7 (EPA) and Big River United Energy, 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 the EPA, is the Director of the Air and Waste Management Division. The Respondent is Big River United Energy, LLC, 3294 Vine Road, Dyersville, Iowa 52040.

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 July 9 and 10, 2014, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 3294 Vine Road, Dyersville, Iowa, 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 **\$6,600**.

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 **\$6,600** 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-07-2015-0013, 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:

Christine Hoard
Chemical Risk Information 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, the 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: 3-12-2015

Name (print): JAMES A. LEITMAN

Title (print): CHIEF OPERATING OFFICER
Big River United Energy, LLC

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 3/19/15



Kent Johnson
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 3/19/15

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

Karina Borrromeo
Karina Borrromeo
Regional Judicial Officer

Date: 3-30-2015

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

Big River United Energy, LLC
3294 Vine Road
Dyersville, Iowa 52040
Docket No. CAA-07-2015-0013

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Emergency Response Program [68.180] *No penalty assessed*
The owner or operator failed to submit an RMP that correctly included the information required regarding the emergency response program. (Section 9)
Facility addressed this post inspection.

Prevention Program
Safety Information [68.65(d)(1)(vii)] \$600
The owner or operator failed to compile written information regarding the material and energy balances for the equipment in the process.
Facility addressed this post inspection.

Safety Information [68.65(d)(2)] \$1,500
The owner or operator failed to document that equipment complies with recognized and generally accepted good engineering practices.
Work to be performed repainting of the anhydrous ammonia storage vessel.
Date Completed: 1/20/15

Prevention Program
Process Hazard Analysis [68.67(e)] \$1,500
The owner or operator failed to establish a system to promptly address the team's findings and recommendations and failed to communicate the actions to operating, maintenance, and other employees whose work assignments were in the process and who may be affected by the recommendations.
Facility addressed this post inspection.

Process Hazard Analysis [68.67(g)] \$600
The owner or operator failed to *retain* (2008) PHAs and updates or revalidations for each process covered, as well as the resolution of recommendations of the life of the process.
Facility addressed this post inspection.

Prevention Program

Operating Procedures [68.69(a)(3)(ii)] \$1,200

The owner or operator failed to include precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.

Facility addressed this post inspection.

Prevention Program

Compliance Audits [68.79(a)(d)] \$1,200

The owner or operator failed to *certify* that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed; and failed to document an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected.

Facility addressed this post inspection.

TOTAL \$6,600

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and the row for >10 times the threshold quantity of 10,000 pounds of flammable mixture as listed in 40 C. F. R. Part 68.130 for the amount in a process gives a multiplier factor of 1.0. Therefore, the multiplier for Big River United Energy, LLC = 1.0

***No adjusted penalty since multiplier is 1*

Total Penalty \$6,600

This section must be also completed and signed by **Big River United Energy, LLC:**

The approximate cost to correct the above items: \$ 1639.00

Compliance staff name: BRIAN SCHWASEL

Signed: Brian Schwasel Date: 3/13/15

IN THE MATTER OF Big River United Energy, LLC, Respondent
Docket No. CAA-07-2015-0013

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 by email to Attorney for Complainant:

hoard.christine@epa.gov

Copy by First Class Mail to:

James A. Leiting
Chief Operating Officer
Big River United Energy, LLC
3294 Vine Road
Dyersville, Iowa 52040

Dated: 3/30/15



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7

