



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101
**EXPEDITED SETTLEMENT
AGREEMENT (ESA)**

06 AUG -9 PM 3:46
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

DOCKET NO: CAA-07-2006-0213

This ESA is issued to: Prairie King, LLC

At: 202 S. Santa Fe, Pretty Prairie, Kansas 67570

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

The United States Environmental Protection Agency, Region 7 (EPA) and Prairie King, LLC, 202 S. Santa Fe, Pretty Prairie, Kansas 67570 (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, RCRA and Toxics Division. The Respondent is Prairie King, LLC, 202 S. Santa Fe, Pretty Prairie, Kansas.

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 September 29, 2005, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 202 S. Santa Fe, Pretty Prairie, Kansas, 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 **\$520.00**.

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 "Treasurer, United States of America") in the amount of **\$520.00** in payment of the full penalty amount to the following address:

United States Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251.

The Docket Number of this ESA is CAA-07-2006-0213, 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:

Scott Cooper

Date: 8-01-06

Name (print): SCOTT Cooper

Title (print): manager
Prairie King, LLC

FOR COMPLAINANT:

William A. Spratlin

Date: 8/8/06

William A. Spratlin
Director
Air, RCRA and Toxics Division
EPA Region 7

Sarah Tibbos

Date: 8/7/06

Sarah Tibbos
Assistant Regional Counsel
EPA Region 7

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

Karina Borromeo

Date: 8/9/06

~~Robert Patrick~~ Karina Borromeo
Regional Judicial Officer

Risk Management Program Inspection Findings

Prairie King LLC
Pretty Prairie, KS

PLEASE COMPLETE AND COPY THIS FORM AND RETURN IT WITH THE ESA

VIOLATIONS

PENALTY AMOUNT

68.50(c) – Owner or operator shall document the results of the Hazard Review and ensure that problems identified are resolved in a timely manner.

\$300.00

The hazards not addressed were:

1. Install emergency shutoff valves.
2. Add additional barriers to protect cabinet and piping.
3. Install loading risers so that the hoses will be off the ground.

How was this addressed: Item 1: Installed 8-1-06

Item 2: Installed 7-25-06

Item 3: Installed 7-28-06

68.195(b) – Emergency contact information – Beginning June 21, 2004, within one month of any change in the emergency contact information required under § 68.160(b)(6), the owner or operator shall submit a correction of that information.

\$1000.00

This correction was submitted 4 months after the change.

How was this addressed: Updated contact information as soon as I knew to do so. As a new manager, I was unaware of the time frame required to do so.

Our RMP manual has a reminder page added so that it reminds anyone reviewing it to submit changes more timely.

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 6-20 employees and the row for >10 times the threshold quantity amount gives a multiplier factor of 0.4. Therefore, the multiplier for Prairie King = 0.4.

2nd Adjusted Penalty = \$1300 (Unadjusted Penalty) X 0.4 (Size-Threshold Multiplier)
Adjusted Penalty = \$520

3rd An Adjusted Penalty of \$520 would be assessed to Prairie King for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

TOTAL **\$520.00**

Please provide the cost to the facility to correct these violations.

Cost: \$ 1,700.⁰⁰

IN THE MATTER OF Prairie King, Inc., Respondent
Docket No. CAA-07-2006-0213

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:

Sarah Thibos
Assistant Regional Counsel
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Scott Cooper, Manager
Prairie King, LLC
202 S. Santa Fe
Pretty Prairie, Kansas 67570

8/10/08

Dated


Kathy Robinson
Regional Hearing Clerk