



UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2016 FEB -1 AM 10:49
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2015-0045

This ESA is issued to: Golden Grain Energy, LLC

At: 1822 43rd Street SW, Mason City, Iowa 50401

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

The United States Environmental Protection Agency, Region 7 (EPA) and Golden Grain 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 Golden Grain Energy, LLC, 1822 43rd Street SW, Mason City, Iowa 50401.

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 24-25, 2012, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 1822 43rd Street SW, Mason City, 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 **\$8,100**.

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 **\$8,100** 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-07-2015-0045, 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:

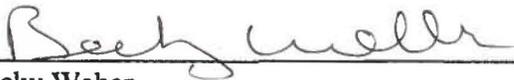


Date: 12/30/2015

Name (print): Chad E. Kuhlers

Title (print): Chief Operations Officer
Golden Grain Energy, LLC

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 1/11/16



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

Date: 1/22/16

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

Karina Borromeo

Date: 2-1-2016

Karina Borromeo
Regional Judicial Officer

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

Golden Grain Energy, LLC
1822 43rd Street SW
Mason City, Iowa 50401
Docket No. CAA-07-2015-0045

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Updates

Risk Management Plan [68.190(b)(1)]

No penalty assessed

The owner or operator failed to revise and update the RMP at least once every five years from the date of its initial submission or most recent update.

Facility re-submitted RMP December 13, 2013

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.

Executive Summary [68.155(c) & (f)]

No penalty assessed

The owner or operator failed to provide in the executive summary a brief description of the general accidental release prevention program, chemical specific prevention steps and planned changes to improve safety.

Facility addressed this post inspection.

Hazard Assessment

Worst-case Release Scenario Analysis [68.25(a)(2)(ii)]

\$1,500

The owner or operator failed to analyze and report one worst-case release scenario that is estimated to create the greatest distance in any direction resulting from accidental release of regulated flammable substance from covered process.

Facility addressed this post inspection.

Worst-case Release Scenario Analysis [68.25(b)(1)]

No penalty assessed

The owner or operator failed to determine the worst-case release quantity for a substance held in a single vessel for a flammable regulated substance.

Facility addressed this post inspection.

Worst-case Release Scenario Analysis [68.25(c)(1)]

No penalty assessed

The owner or operator failed to determine the worst-case release scenario for a toxic substance that is liquid under pressure is the total quantity of the vessel released as a gas over 10 minutes unless passive mitigation systems are in place.

Facility addressed this post inspection.

Hazard Assessment

Documentation [68.39(e)]

\$300

The owner or operator failed to maintain records on the offsite consequences analysis data used to estimate population and environmental receptors potentially affected.

Facility addressed this post inspection.

Prevention Program

Safety Information [68.65(c)(1)(iv & v)]

\$1,200

The owner or operator failed to compile written process safety information pertaining to the technology of the process to include safe upper and lower limits for temperatures, pressures, flows, composition and consequences of deviations.

How was this addressed:

The Standard Operating Procedures (SOPs) were updated by the facility to include this information.

Safety Information [68.65(d)(1)(iv)]

The owner or operator failed to compile written process safety information pertaining to the relief system design and design bases.

How was this addressed:

The facility obtained the written process safety information and maintains the tank farm documentation on-site. Please note, the anhydrous ammonia tank was removed from service in December 2013. All ammonia was removed from the tank and the facility filled the tank with nitrogen. The piping was also disconnected and/or capped so that the tank was no longer connected.

Safety Information [68.65(d)(1)(v)]

The owner or operator failed to compile written information regarding the *ventilation system* design for the equipment in the process. (*Post inspection addressed venting system design for the denaturant tank but not the NH3 vessel*)

How was this addressed:

The facility obtained the written process safety information regarding the ventilation systems and maintains the tank farm information on site. As noted above, the anhydrous ammonia tank was removed from service in December 2013.

Safety Information [68.65(d)(1)(vi)]

The owner or operator failed to compile written process safety information pertaining to the Design codes and standards employed.

How was this addressed:

The facility obtained the written process safety information and maintains the tank farm documentation on-site.

Safety Information [68.65(d)(1)(vii)]

The owner or operator failed to compile written process safety information pertaining to the Material and energy balances for processes built after June 21, 1999.

How was this addressed:

The material and energy balances for processes have been updated by the facility and documentation is maintained on-site.

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.

How was this addressed:

The facility was built by Fagen, Inc. Fagen, Inc. also utilizes Fagen Engineering, LLC in support of building activities. The professional engineers at Fagen Engineering, LLC specified equipment used at the facility. Golden Grain Energy, LLC incorporates PSM Management of Change for alterations to the facility. In addition, the facility complies with API 621 for maintaining the denaturant storage tank.

Prevention Program

Process Hazard Analysis [68.67(a)]

No penalty assessed

The owner or operator failed to perform an initial process hazard analysis, and has this analysis identified, evaluated, and controlled the hazards involved in the process?

Prevention Program

Process Hazard Analysis [68.67(e)]

No penalty assessed

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.

How was this addressed:

Golden Grain Energy, LLC (GGE) continues to maintain and improve the PHA. The initial PHA was determined to be lacking and GGE worked to improve the program. GGE has also added other programs to improve facility compliance such as ISO 14001. GGE also hired a new PHA vendor, Olsson Associates, to recertify the PHA, which was completed in 2104. The work order system allows for the administrator to include follow-up and closure of activities related to audits and findings. In addition, the EH&S Manager duties require follow-up and the ISO 14001 program provides procedures for follow-up of such assignments.

Prevention Program

Operating Procedures [68.69(a)]

\$1,500

The owner or operator failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in the covered process consistent with the process safety information.

Facility addressed this post inspection.

Operating Procedures [68.69(a)(1)]

The owner or operator failed to address the steps for each operating phases; initial startup, normal operation, temporary operations, emergency shutdown, normal shutdown and startup following a turnaround or emergency shutdown.

Facility addressed this post inspection.

Operating Procedures [68.69(a)(2)]

The owner or operator failed to address the operating limits including the consequences of deviation and steps required to correct or avoid deviation.

Facility addressed this post inspection.

Prevention Program

Operating Procedures [68.69(a)(3)(i & ii)]

The owner or operator failed to address safety and health considerations regarding properties of and hazards presented by the chemicals used in the process and precautions necessary to prevent exposure including administrative controls.

Facility addressed this post inspection.

Operating Procedures [68.69(a)(4)]

The owner or operator failed to address safety systems and their functions.

Facility addressed this post inspection.

Prevention Program

Training [68.71(a)(1)]

\$1,500

The owner or operator failed to initially train in an overview of the process and in the operating procedures. The owner or operator failed to provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process.

How was this addressed:

The facility has contracted with an outside service provider to support training. RMP training was added to the employee schedules. It should be noted that the facility has an incentive (bonus) program that requires 100% employee completion or the associated incentives are not distributed to anyone.

Prevention Program

Compliance Audits [68.79(d)]

No penalty assessed

The owner or operator failed to promptly determine and document an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected.

How was this addressed:

The PHA was revised to incorporate a procedure to "close" issues or follow-up on recommendations determined during reviews. Work orders now have a "completion" section to allow for documentation. In addition, the facility ISO 14001 program incorporates a verification to document responses to corrected deficiencies. The ISO 14001 follow-up is the duty of the EH&S Manager, but also has oversight and follow-up by other facility Managers.

Employee Participation [68.83(b)]

\$600

The owner or operator failed to consult with employees and their representatives on the conduct and development of process hazard analyses and on the development of the other elements of process safety management in chemical accident prevention provisions.

How was this addressed:

The PHA is prepared/maintained by both Mangement and employees at the Golden Grain Energy, LLC facility. Typically, 2 Managers (such as Maintenance and Grains or Grains and Production) work with a lead operator or Supervisor to review and update the PHA.

TOTAL

\$8,100

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 Golden Grain Energy, LLC = 1.0

***No adjusted penalty since multiplier is 1*

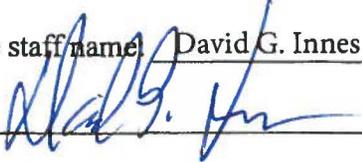
Total Penalty

\$8,100

This section must be also completed and signed by **Golden Grain Energy, LLC:**

The approximate cost to correct the above items: \$ \$50,000

Compliance staff name: David G. Innes

Signed: 

Date: 1/30/15

IN THE MATTER OF Golden Grain Energy, LLC, Respondent
Docket No. CAA-07-2015-0045

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 emailed to Attorney for Complainant:

hoard.christine@epa.gov

Copy mailed First Class Mail to Respondent:

Chad E. Kuhlert

Chief Operations Officer

1822 43rd Street SW

Mason City, Iowa 50401

Dated: 2/1/16



Kathy Robinson
Hearing Clerk, Region 7