



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 23 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stacy Schmidt
Director of Corporate Hazard Management
The Andersons, Inc.
PO Box 119
480 W. Dussel Drive
Maumee, OH 43537

RE: Expedited Settlement Agreement and Finding of Violation at The Andersons, Inc., Winona,
Minnesota
ESA Docket No: ESA-16-RMP-008
Docket No.: **CAA-05-2016-0025**

Dear Mr. Schmidt:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA) in resolution of the above case. The ESA is binding on the U.S. Environmental Protection Agency and The Andersons, Inc. EPA will take no further action for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Greg Chomycia at (312)353-8217, or chomycia.greg@epa.gov if you have any questions regarding the enclosed document or if you have any other questions about the Risk Management Program. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael E. Hans".

Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



DOCKET NO: RMP-16-ESA-008

This ESA is issued to: The Andersons Inc.

at: 1020 East Second Street, Winona, Minnesota 55987

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

CAA-05-2016-0025

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and The Andersons Inc. (“Respondent”), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly “the Parties”) have agreed that settling this action without the filing of a complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement (“ESA”) and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA’s authority under Sections 113(a)(3) and (d) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA (“Complainant”) has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On January 10, 2015, EPA sent a Request for Information Pursuant to Section 114(a) of the Clean Air Act to The Andersons Inc., to determine its compliance with the Risk Management Program (“RMP”) regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. EPA found that the Respondent had violated the regulations implementing Section 112(r) of the Act by failing to comply with 40 C.F.R. Part 68.190(b)(1), the requirement to resubmit its RMP at least every five years.

SETTLEMENT

In consideration of Respondent’s size of business, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for this alleged violation for the total penalty amount of **\$1,600.00**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1,600.00** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-16-ESA-008.)

This signed original ESA and a **copy of the check must be sent by certified mail to:**

Greg Chomycia
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of

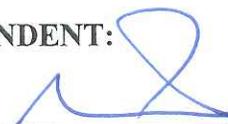
Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature:  Date: 4/11/16
Name (print): STACY SCHMIOT
Title (print): DIRECTOR, GILBERT HAZARD MANAGEMENT
Respondent

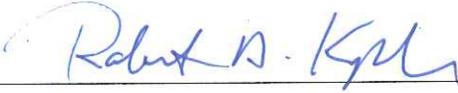
FOR COMPLAINANT:

 Date: 5-19-16
Richard C. Karl, Director
Superfund Division

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Robert A. Kaplan
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

Date: May 20, 2018

In the matter of: The Andersons Inc., Winona, Minnesota
Docket Number: CAA-05-2016-0025

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on May 23, 2016, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Mr. Stacy Schmidt
Director of Corporate Hazard Management
The Andersons Inc.
PO Box 119
480 W. Dussel Drive
Maumee, OH 43537

Copy by E-mail to
Attorney for Complainant:

Steven Kaiser
kaiser.steven@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: May 23, 2016

L Whitehead
LaDawn Whitehead
Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7011 1150 0000 2640 7100



The Andersons Inc.
P.O. Box 119 • Maumee, Ohio 43537 • 419/893/5050

April 12, 2016

USEPA
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St Louis, Missouri 63197-9000

Re: Penalty Payment
The Andersons
Docket Nos: CAA-RMP-2016-004
CAA-RMP-2016-005
CAA-RMP-2016-008 CAA-05-2016-0025



Dear Sirs:

Enclosed is a check in the amount of \$ 4,800.00 (3 X \$ 1,600.00) in settlement of these matters. Copies of the check have also been forwarded to the Region 5 personnel noted in the original 3/11/16 letters.

Please let me know if you need anything else in this matter. I can be reached at 419-891-2957 or stacy_schmidt@andersonsinc.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacy Schmidt".

Stacy Schmidt, MPH, MS
Director, Corporate Hazard Management