



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

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7  
2015 OCT 26 AM 10:52

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2015-0041

**This ESA is issued to:** City of Gardner, Hillsdale Water Treatment Plant

**At:** 22705 South Moonlight Road, Spring Hill, Kansas 66083

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

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The United States Environmental Protection Agency, Region 7 (EPA) and City of Gardner, Hillsdale Water Treatment Plant (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 City of Gardner, Hillsdale Water Treatment Plant, 22705 South Moonlight Road, Spring Hill, Kansas 66083.

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 February 20, 2013, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 22705 South Moonlight Road, Spring Hill, 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 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 **\$3,000**.

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 **\$3,000** 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-07-2015-0041, 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:

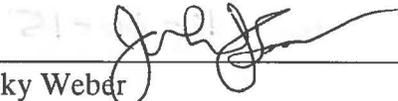


Date: 10/7/15

Name (print): GONZALO A. GARCIA

Title (print): UTILITIES DIRECTOR  
City of Gardner, Hillsdale Water Treatment Plant

FOR COMPLAINANT:

  
\_\_\_\_\_  
Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 10/20/15

  
\_\_\_\_\_  
~~Kent Johnson~~  
Assistant Regional Counsel  
Office of Regional Counsel  
EPA Region 7

Date: 10/22/15

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

Karina Borromeo

Karina Borromeo  
Regional Judicial Officer

Date: 10-26-15

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

City of Gardner, Hillsdale Water Treatment Plant  
22705 South Moonlight Road  
Spring Hill, Kansas 66083  
Docket No. CAA-07-2015-0041

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

**VIOLATIONS**

**PENALTY AMOUNT**

Management [68.15(a)] The owner or operator shall develop a management system to oversee the implementation of the risk management program elements. <i>Facility addressed this post inspection.</i>	\$1,200
Emergency Response [68.90(b)(3)] The owner or operator failed to have the appropriate mechanisms in place to notify emergency responders when there is need for a response. <i>Facility addressed this post inspection.</i>	\$900
Hazard Assessment Documentation [68.39(a)] The owner or operator failed to maintain records on the offsite consequence analyses that included documentation of estimated quantity released, release rate, and duration of release and the data used to estimate population and environmental receptors potentially affected. <i>Facility addressed this post inspection.</i>	\$600
Prevention Program Safety Information [68.48(a)(2)] The owner or operator failed to compiled and maintain the maximum intended inventory of equipment in which the regulated substances are stored or processed. <i>Facility addressed this post inspection.</i>	\$300
Safety Information [68.48(a)(3)] The owner or operator failed to compiled and maintain the safe upper and lower temperatures, pressures, flow and compositions. <i>Facility addressed this post inspection.</i>	\$300
Hazard Review [68.50(c)] The owner or operator failed to document the results of the review and ensure that problems identified are resolved in a timely manner. <i>Facility addressed this post inspection.</i>	\$300



Prevention Program

Operating Procedures [68.52(b)(1)(3-6)]

\$1,500

The owner or operator failed to address Initial startup, temporary operations, emergency shutdown and operations and normal shutdown in their Operating procedures.

*How was this addressed:*

Operating procedures were updated from the 2000 RMP manual to be current and accurate for the covered process.

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Operating Procedures [68.52(b)(7)]

*No penalty assessed*

The owner or operator failed to address the following in their operating procedures; Consequences of deviation and steps required to correct or avoid deviation.

*How was this addressed:*

A table was added to the operating procedures to ensure consequences of deviation of operating parameters were addressed and steps were added to avoid the deviations.

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Prevention Program

Maintenance [68.56(a)]

\$1,200

68.56(a) - The owner or operator shall prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.

*Facility addressed this post inspection.*

Prevention Program

Compliance Audits [68.58(a)]

\$1,200

The owner or operator failed to certify it has evaluated compliance with the provisions of this subpart at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed.

*How was this addressed:*

The November 2012 Risk Management Compliance audit record was found which contains certification page for the audit. An update was made to the RMP in February 2013 to address audit findings.

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Compliance Audits [68.58(e)]

*No penalty assessed*

The owner or operator failed to retain the two most recent compliance audit reports, unless more than five years old.

*How was this addressed:*

The November 2012 Risk Management Compliance audit record was found. This is the only compliance audit less than five years old.

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Total Unadjusted Penalty

\$7,500

Calculation of Adjusted Penalty

1<sup>st</sup> Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10,001 to 100,000 population and the row for 1-5 times the threshold quantity of 2,500 pounds of chlorine as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 0.4. Therefore, the multiplier for City of Gardner, Hillsdale Water Treatment Plant = 0.4.

2<sup>nd</sup> Adjusted Penalty = \$7,500 (Unadjusted Penalty) X 0.4 (Size-Threshold Multiplier)  
Adjusted Penalty = \$3,000

3<sup>rd</sup> An Adjusted Penalty of \$3,000 would be assessed to City of Gardner, Hillsdale Water Treatment Plant Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

**Total Adjusted Penalty**

**\$3,000**

**This section must be also be completed and signed by City of Gardner, Hillsdale Water Treatment Plant:**

The approximate cost to correct the above items: \$ 2,000

Compliance staff name: GONZALO A. GARCIA

Signed:  Date: 10/7/15



IN THE MATTER OF City of Gardner, Hillsdale Water Treatment Plant, Respondent  
Docket No. CAA-07-2015-0041

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:

bosch.raymond@epa.gov

Copy by email to:

Gonzalo A. Garcia  
Utilities Director  
City of Gardner  
Hillsdale Water Treatment Plant  
22705 Sough Moonlight Road  
Spring Hill, Kansas 66083

10/26/15



Kathy Robinson  
Hearing Clerk, Region 7

