



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

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7

2015 SEP 03 PM 2:05

## EXPEDITED SETTLEMENT AGREEMENT (ESA)

**DOCKET NO.:** CAA-07-2015-0031

**This ESA is issued to:** Key Cooperative – LeGrand  
**At:** 1004 Highway E-49, Marshalltown, Iowa, 50158  
**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 Key Cooperative – LeGrand (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, and Waste Management Division. The Respondent is Key Cooperative – LeGrand, 1004 Highway E-49, Marshalltown, Iowa, 50158.

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 August 14, 2013, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 1004 Highway E-49, Marshalltown, 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 **\$5,360**.

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 **\$5,360** 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-07-2015-0031, 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:

Jodi Harper  
Chemical Risk Information Branch  
Air & Waste Management Division  
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, 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:

Signed: Mark A. Gaunt

Date: 6-26-15

Name (print): Mark Gaunt

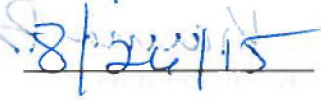
Title (print): Safety Director  
Key Cooperative – LeGrand

FOR COMPLAINANT:



Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date:



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

Date:



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

Karina Borromeo

Date: 9-3-15

Karina Borromeo  
Regional Judicial Officer

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

Key Cooperative - LeGrand  
1004 Highway E-49  
Marshalltown, IA 50158  
Docket No. CAA-07-2015-0031

**COMPLETE THIS FORM AND RETURN IT WITH THE ESA.**

**VIOLATIONS**

**PENALTY AMOUNT**

Hazard Assessment

\$300

Documentation [§ 68.39(e)]

The owner or operator failed to maintain the data used to estimate population and environmental receptors potentially affected for the worst-case and alternative-case scenarios

*How was this addressed:* Population and environmental receptors potentially affected for the worst-case and alternative-case scenarios have been updated using RMP Comp + Missouri Census Data Center - CAPS Version 10C

Prevention Program

\$1,500

Safety Information [§ 68.48(b)]

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices in that vapor hoses were more than two years past the replace by date and the gauge on the bulk tank was designed for LP gas service, not anhydrous ammonia service.

*How was this addressed:* ALL of the hoses (vapor + liquid) were replaced with new ones. The maintenance of the hoses was documented with date work was performed. The gauge on the storage tank was replaced with the appropriate gauge for anhydrous use. This was documented in maintenance records

Prevention Program

\$300

Hazard Assessment [§ 68.50(a)(1)]

The owner or operator failed to identify in the hazard review all hazards associated with the process and regulated substances in that proximity to a liquid propane tank and age and condition of underground piping were not addressed.

*How was this addressed:* The liquid propane tank and age and condition of underground piping has been identified in the hazard review

VIOLATIONS

PENALTY AMOUNT

Prevention Program

\$300

Hazard Assessment [§ 68.50(a)(3)]

The owner or operator failed to identify in the hazard review safeguards used or needed to control the hazards or to prevent equipment malfunction related to rust or other failure of underground piping.

How was this addressed: Safeguards and hazard controls have been identified, as well as, underground piping preventive maintenance procedures to prevent equipment malfunction. Visual inspection, along with testing of underground piping is being used.

Prevention Program

\$300

Hazard Assessment [§ 68.50(a)(4)]

The owner or operator failed to identify in the hazard review any steps used or needed to monitor releases.

How was this addressed: Steps necessary to monitor releases have been identified in hazard review action plan.

Prevention Program

\$1,200

Operating Procedures [§ 68.52(b)(7)]

The owner or operator failed to address consequences of deviations and steps required to correct or avoid deviations in the most recent operating procedures.

How was this addressed: Corrective action and deviation avoidance procedures have been addressed in the consequences of deviation section of the operating procedures.

Prevention Program

\$600

Maintenance [§ 68.56(d)]

The owner or operator failed to perform inspections and tests on process equipment that follow recognized and generally accepted good engineering practices

How was this addressed: The location now performs inspections on storage tank and NH<sub>3</sub> nurse tanks using maintenance schedules and check lists. They document findings, even if everything is okay. If repairs are needed, documentation of what was done is performed.



**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program

\$1,200

Compliance Audits [§ 68.58(a)]

The owner or operator failed to conduct compliance audits at least every three years to verify that the procedures and practices are adequate and are being followed. The owner or operator has also failed to ensure that the compliance audit identified such procedures and practices.

*How was this addressed:* Compliance audits will and have been done going forward. The location will ensure that compliance audit address all procedures and practices that are adequate

Risk Management Plan

\$1,000

Emergency Contact [§ 68.195(b)]

The owner or operator failed to ensure the emergency contact information required at 68.160(b)(6) was updated in the risk management plan within thirty days of the change.

*How was this addressed:* A correction was made in the risk management plan with the correct and current emergency contact information

Total Unadjusted Penalty

\$6,700

**Calculation of Adjusted Penalty**

1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for 0-9 employees (this facility employs approximately 7) and column for more than 10 times the threshold quantity of 10,000 pounds of anhydrous ammonia as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 0.8. Therefore, the multiplier for Key Cooperative LeGrand = 0.8.

2<sup>nd</sup> Adjusted Penalty = \$6,700 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier)  
Adjusted Penalty = \$5,360.

3<sup>rd</sup> An Adjusted Penalty \$5,360 would be assessed to Key Cooperative LeGrand. This amount will be found in the ESA.

**Total Adjusted Penalty**

**\$5,360**

**This section must be also be completed and signed by Key Cooperative LeGrand.**

**VIOLATIONS**

**PENALTY AMOUNT**

The approximate cost to correct the above items: \$ 6,300

Compliance staff name: Mark Gaunt

Signed: Mark A. Gaunt

Date: 7-6-15

IN THE MATTER OF Key Cooperative - LeGrand Respondent  
Docket No. CAA-07-2015-0031

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:

Mark Gaunt  
Safety Director  
1004 Highway #-49  
Marshalltown, Iowa 50128

Dated: 9/3/15

  
Kathy Robinson  
Hearing Clerk, Region 7

