



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2013 NOV 21 PM 3:52

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2013-0022

This ESA is issued to: Farmway Co-Op Inc., Clay Center

At: 635 West Court Street, Clay Center, Kansas 67432

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

The United States Environmental Protection Agency, Region 7 (EPA) and Farmway Co-Op Inc., Clay Center (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 Farmway Co-Op Inc., Clay Center, 635 West Court Street, Clay Center, Kansas 67432.

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 17, 2013, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 635 West Court Street, Clay Center, 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 **\$2,960**.

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 **\$2,960** 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-07-2013-0022, 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:

Pat Reitz (CRIB)
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:

Art Duerksen


Date: 10-21-13

Name (print): Art Duerksen

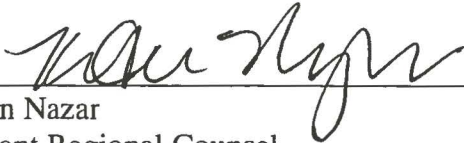
Title (print): President/CEO
Farmway Co-Op Inc., Clay Center

FOR COMPLAINANT:



 _____
Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 11/19/13



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 10/29/13

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

Karina Borromeo

Date: 11-21-13

Karina Borromeo
Regional Judicial Officer

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

Farmway Co-Op Inc., Clay Center
635 West Court Street
Clay Center, Kansas 67432
Docket No. CAA-07-2013-0022

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Safety Information [§ 68.48(b)]

\$1,500

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices. Specifically, failure to ensure that the saddles on each of their 11,000 gallon bulk anhydrous ammonia tanks covered one-third of the required circumference as specified in ANSI 61.1, 1999 Standard.

How was this addressed?

Additional Saddle Straps were engineered and placed to concrete foundations to cover 1/3 of tank. See attached photo.

Prevention Program

Incident Investigation [§ 68.60(e)]

\$1,200

The owner or operator failed to review the findings of an incident investigation with all affected personnel whose job tasks are affected by the findings.

How was this addressed?

Incident investigations will be documented by all employees when reviewed, and placed in file.

Risk Management Plan

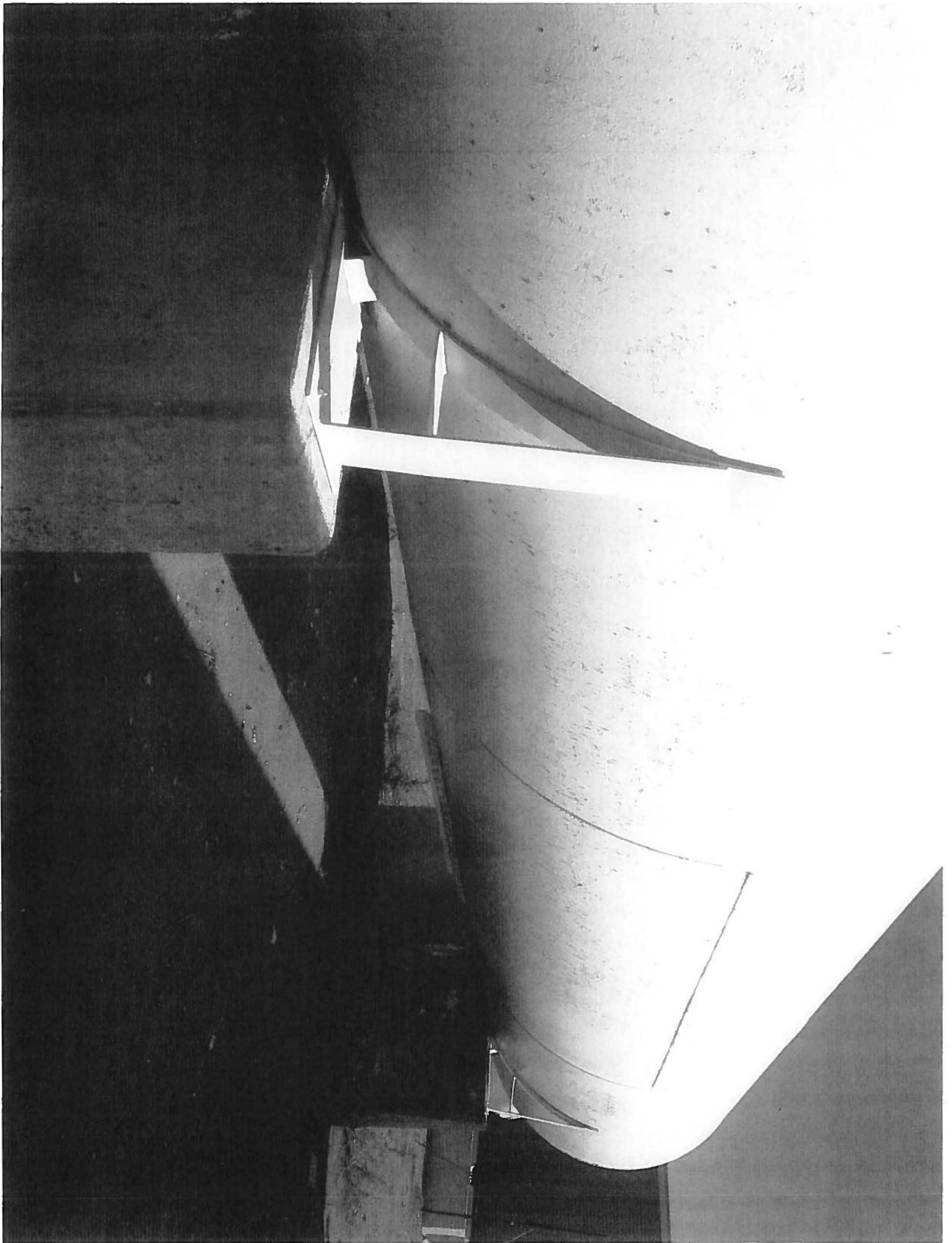
Required Corrections [§ 68.195(b)]

\$1,000

Owner or operator failed to correct emergency contact information in the RMP within 30 days of the change of emergency contact information.

How was this addressed?

Emergency Contact information has been corrected. Changes in emergency contact information will be kept up to date.



VIOLATIONS

PENALTY AMOUNT

Total Unadjusted Penalty

\$3,700

Calculation of Adjusted Penalty

1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 0-9 employees and row for >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 Farmway Co-Op Inc., Clay Center = 0.8.

2nd Adjusted Penalty = \$3,700 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier) = \$2,960

3rd An Adjusted Penalty of \$4,160 would be assessed to Farmway Co-Op Inc., Clay Center, for violations found during the RMP Compliance Inspection.

Total Adjusted Penalty

\$2,960

This section must be also be completed and signed by Farmway Co-Op Inc., Clay Center:

The approximate cost to correct the above items: \$ 980.⁰⁰

Compliance staff name: David L. Edwards

Signed: David L. Edwards Date: _____

IN THE MATTER OF Farmway Co-Op Inc., Clay Center, Respondent
Docket No. CAA-07-2013-0022

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:

nazar.kristen@epa.gov

Copy by First Class Mail to:

Art Duerksen
President/CEO
Farmway Co-Op Inc., Clay Center
635 West Court Street
Clay Center, Kansas 67432

Dated: 11/25/13



Kathy Robinson
Hearing Clerk, Region 7