



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2013 DEC 12 AM 8:51

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2013-0028

This ESA is issued to: Rod's Fertilizer & Sales, Inc. – West Plant

At: 117 North Main Street, Galva, Iowa 51020

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

The United States Environmental Protection Agency, Region 7 (EPA) and Rod's Fertilizer & Sales, Inc. – West 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 Rod's Fertilizer & Sales, Inc. – West Plant, 117 North Main Street, Galva, Iowa 51020.

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 May 26, 2010, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 117 North Main Street, Galva, 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 **\$2,400**.

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 **\$2,400** 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-07-2013-0028, 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:

Amber Whisnant (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.

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

Rod's Fertilizer & Sales, Inc. – West Plant
117 North Main Street
Galva, Iowa 51020
Docket No. CAA-07-2013-0028

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program \$1,500
Safety Information [§ 68.48(b)]
The owner or operator failed to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. Specifically, old risers, no barriers in front of the ammonia pump located between the two ammonia tanks, and underground ammonia lines that failed inspection on May 25, 2010.
To address these issues: The facility has provided information stating that they specifically: 1) replaced the old risers with two new ones; 2) put barriers in front of the ammonia pump located between the two ammonia tanks; and 3) replaced the underground ammonia lines that failed inspection on 5/25/10. This is documented in the file with photos and in communications between Joy Babcock and Tom Guenther.

Prevention Program \$600
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.
How was this addressed:
New risers were constructed, piping replaced and traffic barriers installed. Documentation and photos were provided to Tom Guenther (inspector) prior to issuance of ESA

Prevention Program \$300
Hazard Review [§ 68.58(d)]
The owner or operator failed to determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected.
How was this addressed:
Rod's Fertilizer & Sales, Inc is now utilizing the SMS to document follow up to Hazard Reviews & Compliance Audits. See the attached incident report following up on findings the Hazard Review conducted at the West Plant on 10/26/11

VIOLATIONS

PENALTY AMOUNT

Total Unadjusted Penalty

\$2,400

Calculation of Adjusted Penalty

1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for number of employees between 10-100 and column 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 1.0. Therefore, the multiplier for Rod's Fertilizer & Sales, Inc. = 1.0.

2nd Adjusted Penalty = \$2,400 (Unadjusted Penalty) X 1.0 (Size-Threshold Multiplier)
Adjusted Penalty = \$2,400.

3rd An Adjusted Penalty of \$2,400 would be assessed to Rod's Fertilizer & Sales, Inc. for violations found during the RMP Compliance Inspection. This amount will be found in the ESA.

Total Adjusted Penalty

\$2,400.

This section must be also be completed and signed by Rod's Fertilizer & Sales Inc.:

The approximate cost to correct the above items: \$ 63,000

Compliance staff name: Jay Babcock

Signed: Jay Babcock Date: 10-15-13

FOR RESPONDENT:

Joy Babcock

Date: 10-15-13

Name (print): Joy Babcock

Title (print): Office Mgr
Rod's Fertilizer & Sales, Inc. – West Plant



Incident Investigation Report

Date Of Incident: 5/20/2013 Business: Rod's Fertilizer & Sales, Inc.
 Report Date: 10/13/2013 Incident ID: 163830
 Who Entered: Joey Barnes Incident Type: RMP Hazard Review Finding
 Who Finished: Joey Barnes Date Finished: 5/20/2013
 Who Closed: Joy Babcock Date Closed: 5/21/2013
 Incident Risk Score: Pre: N/A/ Post: N/A

RMP Hazard Review Finding

Plant Name: Galva, IA
Department: No Department

No Cost Information Found

Hazard Review Incident

Is the safety information for this NH3 plant up-to-date? 40 CFR, Part 68.48(c) requirement

Comments

Hose records need to be updated.

Object

Hoses

Location

East NH3 Plant

Basic Causes:

| Cause Type, Cause | Comment |
|---|---|
| Behavior(s), Rules / Practices / Enforcement | Is the safety information for this NH3 plant up-to-date? 40 CFR, Part 68.48(c) requirement |

Explain Basic Cause:

Information for the hoses at the risers have not been updated since they went out of service in 2011.

Review / Comments:

No comments

Files

Corrective Actions / Files:

Will document hose mfg, model and service dates for riser hoses at the East NH3 Plant and input into Risk Management application.

Target Date: 05/21/2013

Finished Date: 05/21/2013

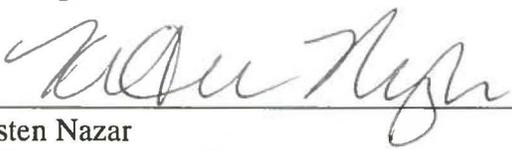
Brent Lytle: Hose records were updated in the web-based RMP manual.

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 12/6/13



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

Date: 11/26/13

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: 12-12-13

IN THE MATTER OF Rod's Fertilizer & Sales, Inc. - West Plant, Respondent
Docket No. CAA-07-2013-0028

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 Respondent:

Mr. Rod Brosamle, President
Rod's Fertilizer & Sales, Inc. - East Plant
117 North Main Street
Galva, Iowa 51020

Dated: 12/12/13



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7