



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-07-2013-0027

This ESA is issued to: Rod's Fertilizer & Sales, Inc. – East Plant
At: 103 Buena Vista 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. – East 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. – East Plant, 103 Buena Vista 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 103 Buena Vista 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-07-2013-0027, 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.

FOR RESPONDENT:

Joy Babcock

Date: 10-15-13

Name (print): Joy Babcock

Title (print): Office Mgr

Rod's Fertilizer & Sales, Inc. – East Plant

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

Rod's Fertilizer & Sales Inc. – East Plant
103 Buena Vista Street
Galva, Iowa 51020
Docket No. CAA-07-2013-0027

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:

1. The facility lacked barriers on the east side of the east bullet. Communications between Joy Babcock and Tom Guenther and a photo located in the file indicate that the facility has addressed this issue by installing a new gate on the east side of the ammonia tank to protect it from vehicular accident.
2. The facility lacks vehicle barriers to protect their bulk head between the west and middle bullets.

How was this addressed:

A gate was installed to prevent vehicular traffic on the east side of the storage tank. Documentation + photos were provided to Tom Guenther (inspector) prior to issuance of ESA

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:

Traffic barriers have been installed along the front of the middle + west storage tanks in the vicinity of the transport bulk head. We are now utilizing the SMS to document follow up Hazard Reviews + Compliance Audits

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:

VIOLATIONS

PENALTY AMOUNT

we are now utilizing the SMS to document follow up to Hazard Reviews & Compliance Audits. See Attached incident report following up on the findings from Compliance Audit conducted at the East Plant on 5/17/13

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: \$ 4000-

Compliance staff name: Joy Babcock

Signed: Joy Babcock Date: 10-15-13



Risk Management Program Audit

Printed 5/20/2013

Type	Corporate	Audit Team	Joy Babcock, Brent Lytle
Name	Risk Management Program Audit	Approved by	Joey Barnes
Frequency	36	Date Completed	5/20/2013
Location	Galva, IA Rod's Fertilizer & Sales, Inc. East Plant		
Instructions			

Audit Comments: Joey Barnes (RCI)

Question Text	Comments	Max	Score
Section: Risk Management Program			
Policy: Management System			
1) Does the facility have a management system that assigns responsibilities of risk management program elements to qualified persons? 40 CFR, 68.15(a) Management requirements		1	1
2) Does the facility have a qualified person assigned the overall responsibility of ensuring the risk management program is implemented? 40 CFR, 68.15(b) Management requirements		1	1
3) Is the management system with lines of authority clearly documented through an organization chart or similar document? 40 CFR, 68.15(c) Management requirements		1	1
Policy: Hazard Assessment			
1) Has the worst-case NH3 release scenario (largest storage tank) showing the distance-to-endpoint and public receptors been modeled? 40 CFR, Part 68.25 Worst-case release scenario analysis requirement		1	1
2) Has at least one alternative NH3 release scenario (hose rupture, pipe leak, valve failure, etc.) showing the distance-to-endpoint and public receptors been modeled? 40 CFR, Part 68.28 Alternative release scenario analysis requirement		1	1
3) Have the EPA parameters for off-site analysis been followed? 40 CFR, Part 68.22 Off-site consequence analysis parameters requirement		1	1
4) Have the off-site consequence analyses been updated at least once every 5 years or within 6 months of a process change that could increase or decrease the distance-to-endpoint by a factor of 2 or more? 40 CFR, Part 68.36 Review and update requirement		1	1
5) Is the documentation (maps, census data, modeling parameters) supporting the off-site consequence analysis complete and maintained on site? 40 CFR, Part 68.39 Documentation requirement		1	1
Policy: Safety Information			
1) Are up-to-date MSDSs for NH3 maintained or accessible on site? 40 CFR, Part 68.48(a)(1) requirement		1	1
2) Is there an accurate record for the maximum inventory of NH3 in all equipment on site (storage and nurse tanks)? 40 CFR, Part 68.48 (a) (2) requirement		1	1
3) Have the safe upper and lower temperature, pressure and flow limits for NH3 equipment in the plant been established? 40 CFR, Part 68.48(a)(3) requirement		1	1
4) Are equipment specifications (operators manual, technical bulletins, etc.) documented? 40 CFR, Part 68.48(a)(4) requirement		1	1



5) Does the company have at least one copy of the latest edition of the standard ANSI K61.1 Safety Requirements for the Storage and Handling of Anhydrous Ammonia? 40 CFR, Part 68.48(a)(5) requirement	1	1
6) Does the plant conform to codes established in the ANSI K61.1 Safety Requirements for the Storage and Handling of Anhydrous Ammonia standard? 40 CFR, Part 68.48(b) requirement	1	1
7) Is the safety information for this NH3 plant up-to-date? 40 CFR, Part 68.48(c) requirement	1	0
Hose records need to be updated.		
Policy: Hazard Review		
1) Has a hazard review been conducted of the NH3 plant to identify the possible equipment malfunctions or human error that could cause an accidental release? 40 CFR, Part 68.50(a)(2) requirement	1	1
2) Was the hazard review conducted by person(s) knowledgeable with the process and NH3?	1	1
3) Was a checklist used while conducting the hazard review to ensure the plant and process are in conformance with federal, state and industry rules and standards? 40 CFR, Part 68.50(b) requirement	1	1
4) Is the hazard review documented and have all problems been resolved in a timely manner? 40 CFR, Part 68.50(c) requirement	1	1
5) Has the hazard review been updated at least once every 5 years or whenever a major change in the process occurs? 40 CFR, Part 68.50(d) requirement	1	1
Policy: Operating Procedures		
1) Have standard operating procedures been written that clearly communicate the step-by-step instructions for safely conducting the following activities: 1) Initial startup, 2) Normal operations, 3) Temporary operations, 4) Emergency shutdown, 5) Normal shutdown, and 6) Startup following an emergency shutdown? 40 CFR, Part 68.52(b) Operating Procedures requirement	1	1
2) Do operating procedures address equipment inspections? 40 CFR, Part 68.52(b) Operating Procedures requirement	1	1
3) Are consequence of deviations addressed in the operating procedures? 40 CFR, Part 68.52(b) Operating Procedures requirement	1	1
4) Were the operating procedures developed by person(s) knowledgeable with the process and NH3?	1	1
5) Are operating procedures updated whenever there is a change in the process? 40 CFR, Part 68.52(c) Operating Procedures requirement	1	1
Policy: Training		
1) Has every plant operator been trained on the hazards of anhydrous ammonia? 40 CFR, Part 68.54(a) Training requirement	1	1
2) Has every operator been trained on the standard operating procedures of the plant? 40 CFR, Part 68.54(d) Training requirement	1	1
3) Do plant operators receive refresher training at least once every 3 years? 40 CFR, Part 68.54(b) Training requirement	1	1
Policy: Maintenance		
1) Are procedures in place and followed to maintain the mechanical integrity of NH3 equipment (e.g. operators manuals, ANSI code, state rules, federal law)? 40 CFR, Part 68.56(a) Maintenance requirement	1	1



2) Are employees involved in maintenance of the plant trained on the process and hazards of anhydrous ammonia and how to avoid or correct unsafe conditions? 40 CFR, Part 68.56(b) Maintenance requirement	1	1
3) Are contractors trained for maintenance activities? 40 CFR, Part 68.56(c) Maintenance requirement	1	1
4) Are inspections and testing conducted of NH3 equipment following good engineering practices at a frequency consistent with manufacturer or industry recommendations, codes, or standards and prior experience? 40 CFR, Part 68.56(d) Maintenance requirement	1	1
Policy: Compliance Audits		
1) Are compliance audits conducted at least once every 3 years? 40 CFR, 68.58(a) Compliance audit requirements	1	1
2) Were compliance audits conducted by at least 1 person knowledgeable of the NH3 process? 40 CFR, 68.58(b) Compliance audit requirements	1	1
3) Are audit findings documented? 40 CFR, 68.58(c) Compliance audit requirements	1	1
4) Were audit findings promptly addressed and deficiencies corrected? 40 CFR, 68.58(d) Compliance audit requirements	1	1
5) Have copies of the 2 most recent audits been retained? 40 CFR, 68.58(e) Compliance audit requirements	1	1
Policy: Emergency Response Plan		
1) Has facility management coordinated with the local emergency responders (fire department, LEPC, regional hazmat team) to respond to an ammonia release by conduction plant walk-throughs; submitting annual chemical inventory (Tier II) reports; providing hazard assessments, maps, diagrams, and msds? 40 CFR, 68.90 Emergency Response Applicability	1	1
2) Does facility management have mechanisms (Emergency Action Plan) in place to notify emergency responders when needed? 40 CFR, 68.90 Emergency Response Applicability	1	1
Policy: Risk Management Plan (RMP)		
1) Has the RMP been up updated at least once every 5 years. 40 CFR, 68.190(b)(1) Update requirements	1	1
Total:	40	39

Incidents	What Happened	Object
Is the safety information for this NH3 plant up-to-date? 40 CFR, Part 68.48(c) requirement	Hose records need to be updated.	Hoses

Corrective Actions	Action Text	Target Date
Brent Lytle	Will document hose mfg, model and service dates for riser hoses at the East NH3 Plant and input into Risk Management application.	5/21/2013

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 12/8/13



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

Date: 11/20/13

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. - East Plant, Respondent
Docket No. CAA-07-2013-0027

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