



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66401
09 NOV 30 AM 8:13
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2009-0023

This ESA is issued to: Oldhams LLC

At: 619 East 4th Street, Holton, Kansas 66436

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

The United States Environmental Protection Agency, Region 7 (EPA) and Oldhams LLC, 619 East 4th Street, Holton, Kansas 66436 (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 Oldhams LLC, 619 East 4th Street, Holton, Kansas 66436.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Department of Justice jointly determined that in cases where the first alleged date of violation occurred more than one year before initiation of an administrative action and which meets 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 January 14, 2009, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 619 East 4th Street, Holton, 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 Clean Air Act. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (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 \$1,320.00.

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 Clean Air Act, 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 \$1,320.00 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-07-2009-0023, 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:

Deanna Smith
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

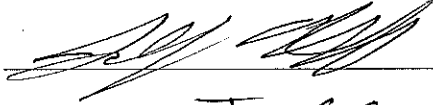
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other 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:

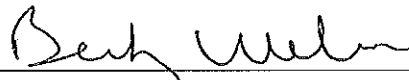


Date: 11-10-09

Name (print): Jeff Miller

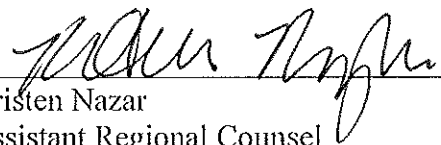
Title (print): HRI Safety Manager
Oldhams LLC

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 11/23/09



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

Date: 11/16/09

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

Karina Borrromeo
Karina Borrromeo
Regional Judicial Officer

Date: Nov. 30, 2009

Risk Management Program Inspection Findings

Oldhams LLC
619 East 4th Street
Holton, Kansas 55436
Docket No. CAA-07-2009-0023

CAA §112(r) Violations

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Management - § 68.15(a)

\$ 300.00

The owner or operator failed to develop a management system to oversee the implementation of the risk management program elements.

The owner or operator failed to assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements. § 68.15(b)

The owner or operator failed to document other persons responsible for implementing individual requirements of the risk management program and define the lines of authority through an organization chart or similar document. § 68.15(c)

How were these addressed:

We have updated table #6 which defines overall responsibility for the risk management program. At this time, the HR/Safety Manager (Jeff Miller) has responsibility for the oversight of our risk management program. In addition, we have updated table #6 to define other persons responsible for implementing individual requirements of the risk management program. Lines of authority can be found in table #6.

Operating Procedures - § 68.69(c)

\$ 600.00

The owner or operator failed to certify annually that the operating procedures are current and accurate.

How was this addressed:

The Refrigeration Technician certifies that operating procedures are current and accurate as he services equipment and uses each procedure annually. In addition, an automated preventative maintenance work order is generated on an annual basis which will remind us to review any operating procedures that have not yet been certified for the year.

VIOLATIONS

PENALTY AMOUNT

Training - § 68.71(c)

\$ 300.00

The owner or operator failed to ascertain that each employee involved in operating a process has received and understood the training required and prepared a record verifying such.

How was this addressed:

Training is being completed for Members that are operating a process and this training is documented and stored in an operator training file.

Risk Management Plan - § 68.195(b)

\$1,000.00

The owner or operator failed to update the emergency contact information required at § 68.160(b)(6) within thirty days of the change.

How was this addressed:

RMP submit has been updated with current emergency contact information. This update was completed on January 12th, 2009.

TOTAL

\$2,200.00

Calculation of Adjusted Penalty

- 1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for >100 employees and the row for 1-5 times the threshold quantity amount gives a multiplier factor of 0.6. Therefore, the multiplier for Oldhams LLC = 0.6.
- 2nd Adjusted Penalty = \$2,200.00 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier)
Adjusted Penalty = \$1,320.00
- 3rd An Adjusted Penalty of \$1,320.00 would be assessed to Oldhams LLC for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

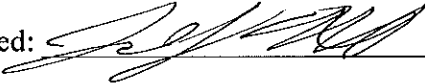
TOTAL ADJUSTED PENALTY

\$1,320.00

PROVIDE THE COST TO THE FACILITY TO CORRECT THE ABOVE VIOLATIONS.

The approximate cost to correct the above items: \$ 6,028.50 _____

Compliance staff name: Jeff Miller – HR/Safety Manager _____

Signed:  _____ Date: 11-10-09

IN THE MATTER OF Oldhams LLC, Respondent
Docket No. CAA-07-2009-0023

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Jeff Miller, HR/Safety Manager
Oldhams LLC
619 East 4th Street
Holton, Kansas 66436

Dated: 11/30/09


Kathy Robinson
Hearing Clerk, Region 7