



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

2016 SEP 22 PM 3: 04

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2014-0022

This ESA is issued to: Eldon C. Stutsman, Inc. – Hills Facility

At: 121 Lassie St., P.O. Box 250, Hills, IA 52235

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

The United States Environmental Protection Agency, Region 7 (EPA) and Eldon C. Stutsman, Inc. – Hills Facility (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 Eldon C. Stutsman, Inc. – Hills Facility, 121 Lassie Street, P.O. Box 250, Hills, Iowa 52235.

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 June 27, 2013, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 121 Lassie Street, Hills, 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 **\$11,000**.

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 **\$11,000** 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-07-2014-0022, 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:

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:



Date: 9/8/2014

Name (print): David W. Henderson

Title (print): Safety & Compliance Officer
Eldon C. Stutsman, Inc. – Hills Facility

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 9/22/14



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

Date: 9/19/14

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: 9-22-14

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

Eldon C. Stutsman, Inc – Hills Facility
121 Lassie St., P.O. Box 250
Hills, IA 52235
Docket No. CAA-07-2014-0022

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

\$1,500

Process Safety Information [§ 68.65(d)(3)]

The owner or operator failed to determine and document that existing equipment, designed and constructed in accordance with codes, standards, or practices that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner. Specifically, saddles supporting bulk tanks are not extended over at least one third of the circumference of the shell.

How was this addressed: Information provided to EPA post-inspection indicated this violation had been addressed by installing extensions to the existing supports to comply with ANSI K61.1 (1999). No further action is needed.

Prevention Program

\$1,500

Process Hazard Analysis [§ 68.67(e)]

The owner or operator failed to communicate actions resulting from the process hazard analysis to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations.

How was this addressed: Information provided to EPA post-inspection indicated that a memo was issued to the affected employees and changes made to the procedures to ensure employee notification occurs in the future. No further action is needed.

Prevention Program

\$1,200

Operating Procedures [§ 68.69(c)]

The owner or operator failed to annually certify that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary.

How were these addressed: Information provided to EPA post-inspection included a revised operating procedures policy including the requirement to certify annually. No further action is needed.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

\$900

Mechanical Integrity [§ 68.73(d)(4)]

The owner or operator failed to document each inspection and test that had been performed on process equipment, including date of inspection or test, name of person who performed the inspection or test, serial number or other identifier of the equipment on which the test was performed.

How was this addressed: Information provided to EPA post-inspection included a revised form for testing, which includes the required information. No further action is needed.

Prevention Program

\$900

Contractors [§ 68.87(b)(1)]

The owner or operator failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs

Contractors [§ 68.87(b)(2)]

The owner or operator failed to inform the contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.

Contractors [§ 68.87(b)(3)]

The owner or operator failed to explain to the contract owner or operator the applicable provisions of the emergency response or the emergency action program.

How was this addressed: Information provided to EPA post-inspection included a new Contractor Policy which specifies contractor safety requirements, orientation, and what each contractor must provide before commencing on-site work. No further action is needed.

Risk Management Plan

\$5,000

[§ 68.160(b)(7)]

The owner or operator failed to assign the correct program level to its covered process.

How was this addressed: The facility did not implement the Program 3 process within a timely manner, but had developed and implemented the process by the time of the inspection. No further action is needed.

Total Unadjusted Penalty

\$11,000

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 greater than 100 (this facility employs approximately 110) 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 1.0. Therefore, the multiplier for Eldon C Stutsman – Hills = 1.0.
- 2nd Adjusted Penalty = \$11,000 (Unadjusted Penalty) X 1.0 (Size-Threshold Multiplier)
Adjusted Penalty = \$11,000.
- 3rd An Adjusted Penalty of \$11,000 would be assessed to Eldon C. Stutsman – Hills Facility for violations found during the RMP Compliance Inspection. This amount will be found in the ESA.

Total Adjusted Penalty

\$11,000

This section must be also be completed and signed by Eldon C. Stutsman, Inc. – Hills Facility.

The approximate cost to correct the above items: \$ 1,500.⁰⁰

Compliance staff name: David W. Henderson

Signed:  Date: 9/8/14

IN THE MATTER OF Eldon C. Stutsman, Inc. - Hills Facility, Respondent
Docket No. CAA-07-2014-0022

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:

Eldon C. Stutsman, Inc. - Hills Facility
David W. Henderson
Safety & Compliance Officer
121 Lassie Street, PO Box 250
Hills, Iowa 52235

Dated: 9/22/14



Kathy Robinson
Hearing Clerk, Region 7

