



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2015 JAN 13 AM 10:00

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2015-0002

This ESA is issued to: Mid-West Fertilizer, Inc.

At: 713 North Industrial Road, Iola, Kansas 66749

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

The United States Environmental Protection Agency, Region 7 (EPA) and Mid-West Fertilizer, Inc. (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 Mid-West Fertilizer, Inc., 713 North Industrial Road, Iola, Kansas 66749.

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 April 30, 2014, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 713 North Industrial Road, Iola, 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 **\$4,080**.

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 **\$4,080** 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-07-2015-0002, 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:

Christine Hoard
Chemical Risk Information Branch
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

In the Matter of Mid-West Fertilizer, Inc.
Docket No. CAA-07-2015-0002
Page 3 of 6

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: 12-4-2014

Name (print): Douglas King

Title (print): EHS Director
Mid-West Fertilizer, Inc.

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 12/17/14



Kent Johnson
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 12/17/14

In the Matter of Mid-West Fertilizer, Inc.
Docket No. CAA-07-2015-0002
Page 6 of 6

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

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date: 1-13-2015

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

Mid-West Fertilizer, Inc.
713 North Industrial Road
Iola, Kansas 66749
Docket No. CAA-07-2015-0002

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Risk Management Plan

Updates [68.190(b)(1)]

\$2,000

The owner or operator failed to revise and update the RMP at least once every five years from the date of its initial submission or most recent update.

RMP submitted April 9, 2014

Updates [68.195(b)]

\$1,000

If the emergency contact information required at 68.160(b)(6) has changed since June 21, 2004, did the owner or operator submit corrected information within thirty days of the change?

Facility addressed this post inspection.

Prevention Program

Hazard Review [68.50(b)]

\$600

The owner or operator shall determine by inspecting all equipment that the process is designed, fabricated, and operated in accordance with applicable standards or rules, if designed to meet industry standards or Federal or state design rules, and document the results of the review.

How was this addressed: Built new Bulk Head Fabricated to applicable standards

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 and good engineering practices.

How was this addressed:

Built new Bulk Head to good engineering practices

Total Unadjusted Penalty

\$5,100

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 the 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 Mid-West Fertilizer, Inc. = 0.8.

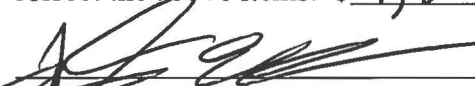
2nd Adjusted Penalty = \$5,100 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier)
Adjusted Penalty = \$4,080


3rd An Adjusted Penalty of \$4,080 would be assessed to Mid-West Fertilizer, Inc. for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

Total Adjusted Penalty **\$4,080**

This section must be also be completed and signed by Mid-West Fertilizer, Inc.:

The approximate cost to correct the above items: \$ 1,890⁷²

Compliance staff name:  Douglas King

Signed:  Date: 12-3-2014

IN THE MATTER OF Mid-West Fertilizer, Inc., Respondent
Docket No. CAA-07-2015-0002

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:

hoard.christine@epa.gov

Copy by First Class Mail to:

Douglas King
EHS Director
Mid-West Fertilizer, Inc.
713 North Industrial Road
Iola, Kansas 66749

Dated: 1/13/15



Kathy Robinson
Hearing Clerk, Region 7