



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 7  
901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101  
**EXPEDITED SETTLEMENT  
AGREEMENT(ESA)**

06 APR 17 PM 2:06

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**DOCKET NO:** CAA-07-2006-0139

**This ESA is issued to:** Farmers Union Cooperative Company  
**At:** 650 U.S. Highway 6, Friend, Nebraska 68359-9701  
**for violating Section 112(r)(7) of the Clean Air Act.**

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The United States Environmental Protection Agency, Region 7 (EPA) and Farmers Union Cooperative Company, 650 U.S. Highway 6, Friend, Nebraska (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, RCRA and Toxics Division. The Respondent is Farmers Union Cooperative Company, 650 U.S. Highway 6, Friend, Nebraska.

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 Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

**ALLEGED VIOLATIONS**

On January 11, 2006, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 650 U.S. Highway 6, Friend, Nebraska, 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. 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 in 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 "Treasurer, United States of America") in the amount of \$ 1,320.00 in payment of the full penalty amount to the following address:

Mellon Bank  
U.S. EPA Region 7  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251.

The DOCKET NUMBER OF THIS ESA, is CAA-07-2006-0139, 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:

Julie M. Van Horn  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
901 North Fifth 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 Fifth Street  
Kansas City, Kansas 66101.

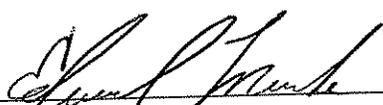
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other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

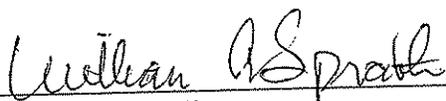
  
\_\_\_\_\_

Date: 3-27-06

Name (print): Edward Menke

Title (print): Manager  
Farmers Union Cooperative Company

FOR COMPLAINANT:

  
\_\_\_\_\_

Date: 4/12/06

William A. Spratlin  
Director  
Air, RCRA and Toxics Division  
EPA Region 7

  
\_\_\_\_\_

Date: 4/3/06

Julie M. Van Horn  
Senior Assistant Regional Counsel  
EPA Region 7

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: 4/14/06

## Risk Management Program Inspection Findings

Farmers Union Cooperative Company  
Friend, Nebraska

**PLEASE COMPLETE AND COPY THIS FORM AND RETURN IT WITH THE ESA**

### VIOLATIONS

### PENALTY AMOUNT

68.58(a) - Owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed \$300.00

*How was this addressed:* a compliance audit was conducted on 1/24/06, Farmers Union Coop was found to be in compliance.

68.190(b)(1) - Owner or operator shall review and update the RMP and submit to EPA a five-year update. \$2,000

*How was this addressed:* Farmers Union Coop's RMP was resubmitted on 1/24/06 with all nine sections.

68.195(b) - Owner or operator shall submit corrected information within thirty days of the change of emergency contact information \$1,000

*How was this addressed:* Farmers Union Coop's RMP was resubmitted on 1/24/06 with Ed menke as acting emergency contact,

PLEASE PROVIDE THE COST OF THE FACILITY TO CORRECT THE VIOLATIONS  
\$ \_\_\_\_\_

### Calculation of Adjusted Penalty

1<sup>st</sup> Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for number of employees (6 – 20) and > 10 times the threshold quantity amount gives a multiplier factor of 0.4. Therefore, the multiplier for Farmers Union Cooperative Company = 0.4.

2<sup>nd</sup> Adjusted Penalty = \$3,300 (Unadjusted Penalty) X 0.4 (Number of employees and Threshold Multiplier)  
Adjusted Penalty = \$1,320.00

3<sup>rd</sup> An Adjusted Penalty of \$1,320.00 would be assessed to Farmers Union Cooperative Company for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

**TOTAL**

**\$1,320.00**

IN THE MATTER OF Farmers Union Cooperative Company, Respondent  
Docket No. CAA-07-2006-0139

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day to the following addresses:

Copy hand delivered to:

Julie M. Van Horn  
Senior Assistant Regional Counsel  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Edward Menke, Manager  
Farmers Union Cooperative Company  
650 U.S. Highway 6  
Friend, Nebraska 68359-9701

4/17/06  
Dated

  
Kathy Robinson  
Regional Hearing Clerk