



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7

2019 JUL 13 PM 12:55

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2019-0202

This ESA is issued to: Mid-Kansas Cooperative Association

At: 3006 Fair Road, Talmage, Kansas 67482

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

The United States Environmental Protection Agency, Region 7 (EPA) and Mid-Kansas Cooperative Association (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 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 Enforcement and Compliance Assurance Division. Respondent is Mid-Kansas Cooperative Association, 3006 Fair Road, Talmage, Kansas 67482.

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 policies entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68," dated January 5, 2004, and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," dated December 20, 2013, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On February 5, 2019, an authorized representative of the EPA conducted a compliance inspection of Respondent's facility located at 3006 Fair Road, Talmage, Kansas, to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Chemical Accident Prevention Provisions Inspection Findings (CAPP Inspection 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 CAPP Inspection Findings, for the total penalty amount of **\$3,760**.

This settlement is subject to the following terms and conditions:

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 CAPP Inspection 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 Respondent has corrected the violations listed in the enclosed CAPP Inspection Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$3,760** 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-07-2019-0202 and must be included on the check.

This original ESA, a copy of the completed CAPP Inspection Findings, and a copy of the check must be sent by certified mail to:

Christine Hoard
Chemical Branch
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

A copy of the check must also be sent to:

Lisa Haugen
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

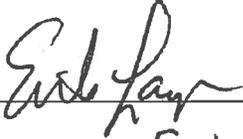
Full payment of the ESA penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAPP Inspection Findings. The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

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 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 CAPP Inspection Findings.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

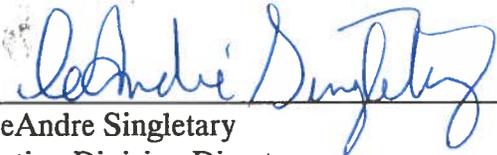


Date: 6/17/2019

Name (print): Erik Lange

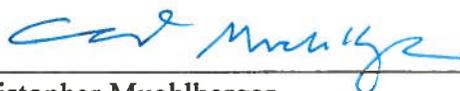
Title (print): SVP & COO
Mid-Kansas Cooperative Association

FOR COMPLAINANT:



DeAndre Singletary
Acting Division Director
Enforcement and Compliance Assurance Division
EPA Region 7

Date: 6-28-19



Christopher Muehlberger
Acting Chemical Branch Chief
Office of Regional Counsel
EPA Region 7

Date: 6.26.19

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

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date: July 2, 2019

Chemical Accident Prevention Provisions Inspection Findings
CAA § 112(r) Violations

Mid-Kansas Cooperative Association
3006 Fair Road
Talmage, Kansas 67482
Docket No. CAA-07-2019-0202

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Risk Management Plan

Emergency Response Program [40 CFR 68.180]

The owner or operator failed to submit an RMP that correctly included the information required regarding the emergency response program. (Section 9)

Facility corrected RMP on February 8, 2019

No penalty assessed

Updates [40 CFR 68.190(b)(1)]

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 February 4, 2019

\$2,000

Hazard Assessment

Documentation [40 CFR 68.36(a)]

The owner or operator failed to review and update the off-site consequence analyses at least once every five years.

Facility updated information February 1, 2019

\$1,200

Prevention Program

Hazard Review [40 CFR 68.50(d)]

The review shall be updated at least once every five years.

The owner or operator shall also conduct reviews whenever a major change in the process occurs; all issues identified in the review shall be resolved before startup of the change process.

Facility addressed this post inspection.

No penalty assessed

<p>Maintenance [40 CFR 68.56(a)] The owner or operator shall prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment. <i>Facility addressed this post inspection.</i></p>	<p>No penalty assessed</p>
<p>Compliance Audits [40 CFR 68.58(a)] The owner or operator failed to certify it has 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. <i>Facility addressed this post inspection.</i></p>	<p>\$1,200</p>
<p>Compliance Audits [40 CFR 68.58(d)] Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected. <i>Facility addressed this post inspection.</i></p>	<p>\$300</p>
<p>Total Unadjusted Penalty</p>	<p>\$4,700</p>

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-Kansas Cooperative Association - Talmage = 0.8.

2nd Adjusted Penalty = \$4,700 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier)
Adjusted Penalty = \$3,760

3rd An Adjusted Penalty of \$3,760 would be assessed to Mid-Kansas Cooperative Association for violations found during the CAPP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

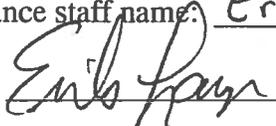
Total Adjusted Penalty \$3,760

Total Penalty \$3,760

This section must be also completed and signed by **Mid-Kansas Cooperative Association:**

The approximate cost to correct the above items: \$ 6,700.00

Compliance staff name: Erik Lange

Signed:  Date: 6/17/2019