



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

09 AUG 17 AM 10:29

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2009-0015

**This ESA is issued to:** Ottawa Water Treatment Plant

**At:** 301 Beech, Ottawa, Kansas 66067

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

---

The United States Environmental Protection Agency, Region 7 (EPA) and the Ottawa Water Treatment Plant, 301 Beech, Ottawa, Kansas 66067 (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 the Ottawa Water Treatment Plant, 301 Beech, Ottawa, Kansas 66067.

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 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 in the form of an expedited settlement agreement.

ALLEGED VIOLATIONS

On January 12, 2009, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 301 Beech, Ottawa, Kansas 66067, 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 **\$1,360.00**.

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 **\$1,360.00** 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-07-2009-0015, 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 5<sup>th</sup> 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 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

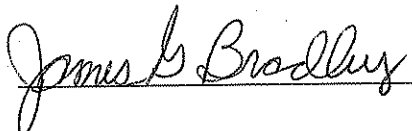
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other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

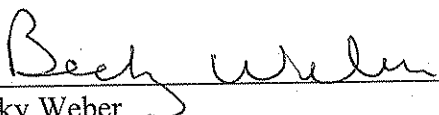


Date: 7-14-09

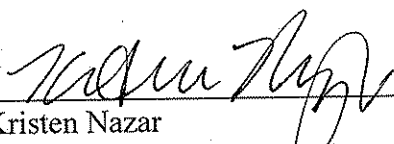
Name (print): James G. Bradley

Title (print): Director of Utilities  
Ottawa Water Treatment Plant

FOR COMPLAINANT:

  
\_\_\_\_\_  
Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 7/31/09

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

Date: 7/29/2009

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: Aug. 17, 2009

**Risk Management Program Inspection Findings**

Ottawa Water Treatment Plant  
301 Beech  
Ottawa, Kansas 66067  
Docket No. CAA-07-2009-0015

CAA § 112(r) Violations

**COMPLETE THIS FORM AND RETURN IT WITH THE ESA.**

**VIOLATIONS**

**PENALTY AMOUNT**

Hazard Assessment  
Review and Update  
§ 68.36(a)

\$ 600.00

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

*How was this addressed:*

The entire RMP including the Hazard Assessment Review w/OCA was updated and resubmitted through RMP\*esubmit on 5/07/09. A hard copy was also sent to EPA Region 7 and reviewed by Patricia Reitz on 5/12/09 with no flaws found. A series of checks and balances has been put into place to ensure timely completion of future Hazard Assessment reviews and updates.

Prevention Program  
Hazard Review  
§ 68.50(d)

\$ 750.00

The owner or operator failed to update the hazard review at least once every five years.

*How was this addressed:*

A hazard review was done on 4/17/09 and was included in the RMP resubmittal and review listed above. A series of checks and balances has been put into place to ensure timely completion of future Hazard Reviews.

VIOLATIONS

PENALTY AMOUNT

Prevention Program  
Operating Procedures  
§ 68.52(a)

\$ 750.00

The owner or operator failed to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process consistent with the safety information for that process. (Note – Did not document operating procedures in § 68.52(b)(1)-(7). Per the 3/16/09 e-mail from David Buehler, Superintendent of the Ottawa Water Treatment Plant, EPA acknowledges that there may be a difference of interpretation of § 68.52(a). Please note that this regulation states, “The owner of operator shall prepare written operating procedures... Operating procedures or instructions provided by equipment manufacturers or developed by persons or organizations knowledgeable about the process and equipment may be used as a basis for a stationary source’s operating procedures.” EPA needs to be assured that Ottawa Water Treatment Plant has taken measures to prepare operating procedures specific to your processes in which employees have knowledge of their location and content.)

*How was this addressed:*

Written Operating Procedures have been developed and implemented in the RMP as well as being replicated in other operational manuals in the plant. These procedures are specific to the Chlorination process at the Ottawa Water Treatment Plant and are readily available to all Plant staff. These procidures are included in the hard copy reviewed by Patricia Reitz at EPA Region 7.

Prevention Program  
Compliance Audits  
§ 68.58(a)

\$ 300.00

The owner or operator failed to 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. (Note – The current audit was due March 9, 2009, and the previous audit was not timely.)

*How was this addressed:*

A Compliance Audit was performed on 4/20/09 by David Buehler, WTP Superintendent and Keith McAdoo, Asst. WTP Superintendent. This was included in the RMP reviewed by Patricia Reitz at EPA Region 7. A series of checks and balances has been put into place to ensure timely completion of future Compliance Audits.



**VIOLATIONS**

**PENALTY AMOUNT**

Risk Management Plan  
§ 68.195(b)

\$1,000.00

The owner or operator failed to correct the emergency contact information, beginning June 21, 2004, within one month of any change in that information required under § 68.160(b)6).

*How was this addressed:*

The contact information has been corrected and updated as part of the entire RMP resubmission. Our records show a correction of contact information being made in our hard copy but EPA could find no electronic submission. A series of checks and balances has been put into place to ensure timely completion of future contact information changes.

TOTAL

\$3,400.00

**Calculation of Adjusted Penalty**

**1st** Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Ottawa WTP serves a population of 12,044. The multiplier for a Government Entity with Service Population size between 10,0001-25,000 is 0.4.

**2nd** Adjusted Penalty = \$3,400.00 (Unadjusted Penalty) X .4 (Size-Threshold Multiplier)  
Adjusted Penalty = \$1,360.00

**3rd** An Adjusted Penalty of \$1,360.00 would be assessed to Ottawa WTP for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL ADJUSTED PENALTY

\$1,360.00

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

The approximate cost to correct the above items: \$1,150 to \$1,725 approximate staff time.

Compliance staff name: James G. Bradley, Director of Utilities

Signed: James G. Bradley Date: 7-14-09

IN THE MATTER OF Ottawa Water Treatment Plant, Respondent  
Docket No. CAA-07-2009-0015

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. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

James G. Bradley  
Director of Utilities  
Ottawa Water Treatment Plant  
301 Beech  
Ottawa, Kansas 66067

Dated: 8/17/09



Kathy Robinson  
Hearing Clerk, Region 7