



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2013 FEB 28 AM 9:47

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2013-0003

This ESA is issued to: KAAPA Ethanol LLC

At: 8450 KAAPA Lane, Minden, Nebraska 68959

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

The United States Environmental Protection Agency, Region 7 (EPA) and KAAPA Ethanol LLC (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 KAAPA Ethanol LLC, 8450 KAAPA Lane, Minden, Nebraska 68959.

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 July 8 and 9, 2010, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 8450 KAAPA Lane, Minden, 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 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 **\$3,780**.

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 **\$3,780** 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-07-2013-0003, 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
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

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:

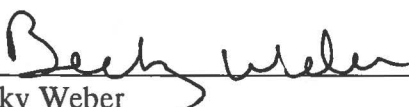


Date: 1-28-13

Name (print): Charles M. Woodside

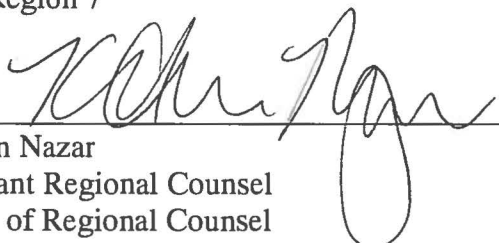
Title (print): Chief Executive Officer
KAAPA Ethanol LLC

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 2/11/13



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

Date: 2/4/13

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

Karina Borrromeo

Karina Borrromeo
Regional Judicial Officer

Date: Feb. 21, 2013

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

KAAPA Ethanol LLC
8450 KAAPA Lane
Minden, Nebraska 68959
Docket No. CAA-07-2013-0003

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Safety Information [§§ 68.65(c)(1)(iv), (c)(1)(v),
(d)(1)(vii)]

\$600

The owner or operator failed to document safe upper and lower limits for temperatures, pressures, flows compositions; consequences of deviation; and material and energy balances.

How were these addressed:

See attached addendum.

Prevention Program

Process Hazard Analysis [§ 68.67(e)]

\$1,500

The owner or operator failed to document the results of the analysis and ensure that findings identified are resolved in a timely manner.

How was this addressed:

See attached addendum.

Prevention Program

Operating Procedures [§ 68.69(c)]

\$1,200

The owner or operator failed to certify annually that the operating procedures are current and accurate.

VIOLATIONS

PENALTY AMOUNT

How was this addressed:
See attached addendum.

Mechanical Integrity [§ 68.73(b)] \$1,500
The owner or operator failed to establish and implement written procedures to maintain the ongoing integrity of the process equipment.
How was this addressed:
See attached addendum.

Prevention Program
Compliance Audits [§ 68.79(a)] \$1,200
The owner or operator failed to conduct a compliance audit every three years.
How was this addressed:
See attached addendum.

Prevention Program
Pre Start-Up Safety Review [§ 68.77(b)(3)] \$300
Owner or operator failed to conduct a pre start up safety review to document that the modified stationary source meets the requirements in the management of change.
How was this addressed:
See attached addendum.

Total Unadjusted Penalty \$6,300

Calculation of Adjusted Penalty

1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and row for 1-5 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 0.6. Therefore, the multiplier for KAAPA Ethanol LLC = 0.6.

2nd Adjusted Penalty = \$6,300 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier)
= \$3,780.

3rd An Adjusted Penalty of \$3,780 would be assessed to KAAPA Ethanol LLC for violations found during the RMP Compliance Inspection.

Total Adjusted Penalty

\$3,780

This section must be also be completed and signed by KAAPA Ethanol LLC:

The approximate cost to correct the above items: \$ 60,000

Compliance staff name: Charles M. Woodside

Signed:  Date: 1-28-13

Addendum to Expedited Settlement Agreement Docket No. CAA-07-2013-0003

Violation: The owner or operator failed to document safe upper and lower limits for temperatures, pressures, flows compositions; consequences of deviation; and material and energy balances.

How this was addressed:

KAAPA gathered information from the "as built," energy balance sheet, and from facility designer ICM to establish a list of upper and lower operation limits. Many of these limits are listed in our general SOP's and referenced in daily operation verification sheets. The energy balance sheet was located after the July audit and updated to reflect the expansion by KFI Engineering. KAAPA has established a program in which, all new hires receive a detailed orientation on the hazards of the process before commencing work. Operations and maintenance personnel then undergo an extensive period of on the job training, whereby they shadow an experienced operation or maintenance person and receive on the job training for how to perform the tasks required maintaining and to trouble shoot process equipment. Our maintenance and operations crews are trained to process work orders for all equipment through our ERPortal Software. This includes initiating, finding assigned work orders, adding hours of labor and parts to work orders, looking up asset work order history, adding parts linked to the repair in a permanent record, finding various diagrams, OEM manuals and other mechanical information in the asset information.

Violation: The owner or operator failed to document the results of the analysis and ensure that findings identified are resolved in a timely manner.

How this was addressed:

The PHA form was updated to address all reviewed and recommended findings. In addition, a list of all individuals participating in the PHA review is listed in the update. An area for signatures of responsible individuals and an area requiring signature with dates of completion is included on the revised PHA form. In future, the facility will track its management of change process to ensure that the change can be made and implemented in a safe manner and that all appropriate documentation is maintained. This includes initiating, finding assigned work orders, looking up asset work order history, adding parts linked to the repair in a permanent record, finding various diagrams, OEM manuals and other mechanical information in the asset information.

Violation: The owner or operator failed to certify annually that the operating procedures are current and accurate.

How this was addressed:

KAAPA's SOPs are currently reviewed and verified on an annual basis, and KAAPA has documented and will document such reviews and any SOP updates. SOPs are now updated with any changes using a "new" revision (top or bottom of page) date of the update along with documented training with operations and maintenance. Currently, all new hires receive a detailed orientation and overview of SOP's prior to commencing work. Annual certification requires a signature from a member of the management team.

Violation: The owner or operator failed to establish and implement written procedures to maintain the ongoing integrity of the process equipment.

How this was addressed:

KAAPA has established a written mechanical integrity plan that covers all PSM and RMP covered process equipment including piping pressure vessels and storage tanks, piping systems, relief and vent systems and devices, emergency shutdown systems, controls and pumps. KAAPA utilizes a computerized maintenance management system called ERPortal to manage its mechanical integrity program. ERPortal allows the facility to effectively schedule all maintenance related work for all components while also providing a complete file documenting all activity relating to maintenance and repair of process equipment. The ERPortal system contains detailed specifications on all PSM and RMP covered process equipment. The facility has programmed ERPortal to generate work orders for all routine preventative maintenance (PM) activities. Currently, all KAAPA employees involved in maintaining the on-going integrity of process equipment are trained in the hazards of the process and in procedures applicable to the job tasks to assure that the employees can perform the work in a safe manner. All new hires receive a detailed orientation on the hazards of the process before commencing work. Operation and maintenance personnel then undergo an extensive period of on the job training, whereby they will shadow an experienced operations or maintenance person and receive on the job training for how to perform the tasks required maintaining and trouble shoot process equipment. As discussed above, the ERPortal system contains detailed equipment information including manufacturer, model number and detailed equipment specifications. Maintenance employees are trained that when replacement of parts or components is necessary, only "like-in kind" replacements are to be performed. If there is a need to do anything besides a like-in-kind replacement, the facility will follow its management of change process to ensure that the change can be made and implemented in a safe manner and that all appropriate documentation is maintained. They are trained specifically under Section 4 (Work orders) of the ERPortal Maintenance work order management & material and parts inventory management.

Violation: The owner or operator failed to conduct a compliance audit every three years.

How this was addressed:

An audit was conducted, with additional audits are scheduled to be completed on 2013; additional forms were obtained from Olsson Associates to be more thorough during our audit process. Olsson Associates will assist in the audit process. Completing a review of documents, review of completed audit and its findings, and assisting with corrective actions, Olsson will continue their involvement as our third party consultant going forward as we utilize additional consultants conducting annual audit tasks as we do with water and air agencies. Appropriate documentation will be maintained identifying the findings of those audits

Violation: The owner or operator failed to conduct a pre start up safety review to document that the modified stationary source meets the requirements in the management of change.

How this was addressed:

Our PSSR form has been updated to reflect recommended changes (initials and signatures) of responsible individuals performing prestart up duties. All KAAPA employees involved in operating and maintaining process equipment are trained on the requirements of the PSSR form. Completed forms are reviewed upon completion to ensure no additional updates, training, or corrective actions are required. PSSR form must include a signature from management, approving process equipment to be started.

.

A violation relating to KAAPA Ethanol's failure to analyze and report in the RMP one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint per 40 CFR 68.25(a)(2)(i) (Not Included on Risk Management Program Inspection Findings)

How this was addressed:

KAAPA staff mistakenly selected "unliquified" during data entry into RMP Compversion 1.07 resulting in the error noted in the inspection report. To correct the error KAAPA updated the WCS on its RMP

submission on EPA's web site. KAAPA will utilize a third party consultant for review of potential updates required to be submitted to the EPA's submission web site

IN THE MATTER OF KAAPA Ethanol LLC, Respondent
Docket No. CAA-07-2013-0003

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 hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
11201 Renner Blvd.
Lenexa, Kansas 66219

Copy by First Class Mail to:

Charles M. Woodside
Chief Executive Officer
KAAPA Ethanol LLC
8450 KAAPA Lane
Minden, Nebraska 68959

Dated: 2/28/13



Kathy Robinson
Hearing Clerk, Region 7