



UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
2013 NOV 21 PM 3:52

11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

ARTD/CRIB  
OCT 22 2013

### EXPEDITED SETTLEMENT AGREEMENT (ESA)

**DOCKET NO.:** CAA-07-2013-0026

**This ESA is issued to:** Aspinwall Cooperative Company – Manning NH3

**At:** 12438 311<sup>th</sup> Street, Manning, Iowa 51455

**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 Aspinwall Cooperative Company – Manning NH3 (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 Aspinwall Cooperative Company – Manning NH3, 12438 311<sup>th</sup> Street, Manning, Iowa 51455.

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 June 11, 2013, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 12438 311<sup>th</sup> Street, Manning, Iowa, 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

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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.

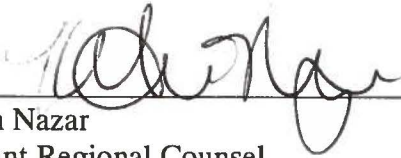
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR COMPLAINANT:



Date: 11/19/17

 Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7



Date: 11/21/13

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

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

*Karina Borromeo*

Date: 11-21-13

Karina Borromeo  
Regional Judicial Officer

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

Aspinwall Cooperative Company – Manning NH3  
12438 311<sup>th</sup> Street  
Manning, Iowa 51455  
Docket No. CAA-07-2013-0026

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

**VIOLATIONS**

**PENALTY AMOUNT**

**Prevention Program**

**Hazard review [§ 68.52(b)(7)]**

**\$1,200**

The owner or operator failed to prepare written operating procedures for the consequences of deviations and steps required to correct or avoid deviations.

*How was this addressed:*

\_\_\_\_\_  
*see attachment*  
\_\_\_\_\_  
\_\_\_\_\_

**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.

*How was this addressed:*

\_\_\_\_\_  
*see attachment*  
\_\_\_\_\_  
\_\_\_\_\_

**Risk Management Plan**

**Required corrections [§ 68.195(b)]**

**\$1,000**

The owner or operator failed to correct the RMP within one month of any change in the emergency contact information.

*How was this addressed:*

\_\_\_\_\_  
*see attachment*  
\_\_\_\_\_  
\_\_\_\_\_

**Total Unadjusted Penalty**

**\$4,200**

Aspinwall Cooperative Company (ACC)  
201 East Main  
Aspinwall, Iowa 51532  
ESA, Docket No. CAA-07-2013-026

October 14, 2013

Since the 6/11/13 EPA inspection of the Manning NH3 plant, ACC has employed a web based Safety Management System (SMS) developed by RCI Safety to more effectively manage safety and regulatory policies and procedures. In addition, listed below are the specific actions taken in response to risk management program violations cited in the ESA, Docket No. CAA-07-2013-0026 for the Manning, IA NH3 plant:

§68.52(b)(7) failed to prepare written operating procedures for the consequences of deviations and steps required to correct or avoid deviations.

*Standard Operating Procedures (SOP's) as required per §68.52(b) were drafted for the Manning plant on 8/22/13. Each SOP includes the consequence of deviation and corrective action. These procedures were reviewed and approved by ACC management on 10/7/13 and can be found in the Operating Procedures section of the ACC Risk Management Policy Manual.*

§68.190(b)(1) failed to update RMP at least once every five years.

*ACC submitted a full RMP on 6/25/13 with corrections made on 10/9/13. Conditions that trigger a correction, resubmission or deregistration are listed in the RMP section of the ACC Risk Management Policy Manual. A 5-year alert was also set in the SMS to alert ACC management prior to the next 5-year RMP anniversary.*

§68.195(b) failed to correct RMP within one month of a change in emergency contact.

*ACC submitted a full RMP on 6/25/13 with corrections made on 10/9/13. Conditions that trigger a correction, resubmission or deregistration are listed in the RMP section of the ACC Risk Management Policy Manual.*

Incident reports, complete with investigation team members, basic causes and corrective actions, can be found in the Incident Reporting application of the SMS for each of the above citations.

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 of 0-9 and the row for more than 10 times the threshold quantity 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 Aspinwall Cooperative Company is 0.8.
- 2<sup>nd</sup> Adjusted Penalty: \$4,200 (Unadjusted Penalty) X 0.8 (Size-Threshold Multiplier) = \$3,360 (Adjusted Penalty).
- 3<sup>rd</sup> A Penalty of \$3,360 would be assessed to Aspinwall Cooperative Company for violations found during the RMP compliance inspection. This amount will be found in the Expedited Settlement Agreement.

**Total Penalty**

**\$3,360**

**This section must be also be completed and signed by Aspinwall Cooperative Company:**

The approximate cost to correct the above items: \$ 7,050.<sup>00</sup>

Compliance staff name: Jeff Nelson

Signed: Jeff Nelson Date: 10-17-13

IN THE MATTER OF Aspinwall Cooperative Company - Manning NH3, Respondent  
Docket No. CAA-07-2013-0026

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:

nazar.kristen@epa.gov

Copy by First Class Mail to:

Jeff Nelson  
Aspinwall Cooperative Company - Manning NH3  
12438 311<sup>th</sup> Street  
Manning, Iowa 51455

Dated:

11/25/13



Kathy Robinson  
Hearing Clerk, Region 7