



Region 7

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Cargill, Incorporated, Blair, Nebraska and Eddyville, Iowa

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In accordance with Section 311(b)(6)(C) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(b)(6)(C) and 40 C.F.R. Part 22 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"), the U.S. Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against Cargill, Incorporated ("Respondent" or "Cargill") for alleged violations of the requirement to develop and operate pursuant to facility response plans ("FRPs") required pursuant to Section 311(j)(5) of the CWA, 33 U.S.C. § 1321(j)(5) and 40 C.F.R. Parts 112.20 and 112.21. FRPs are required for oil storage facilities that store over a million gallons of oil, where a worst case discharge may impact sensitive environments. Respondent's address for this proceeding is Cargill, Incorporated, Law Department MS24, 15407 McGinty Road West, Wayzata, Minnesota 55391.

Under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), EPA is authorized to issue orders assessing civil penalties for various violations of the Clean Water Act. Class II proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22. The EPA may issue such orders after commencing either a Class I or Class II penalty proceeding. Class II proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22. This action is being simultaneously commenced and concluded in a Consent Agreement and Final Order pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The EPA provides notice of the proposed assessment of a Class II civil penalty pursuant to 33 U.S.C. § 1321(b)(6)(C).

In this case, the EPA alleges that until June 2014 Cargill violated the requirements of Section 311(j)(5) and 40 C.F.R. 112.20 and 112.21 at two facilities located in Blair, Nebraska and Eddyville, Iowa. The Blair facility is addressed at 650 Industrial Park Drive, Blair, Nebraska, and has an estimated documented maximum oil storage capacity of 4,668,268 gallons of "oil," as defined at 40 C.F.R. § 112.2, with the largest storage tank having a maximum capacity of 1,730,689 gallons of denatured ethanol. The Eddyville facility is addressed at 17540 Monroe-Wapello Road, Eddyville, Iowa, and has a documented maximum oil storage capacity of 2,431,893 gallons of "oil," as defined at 40 C.F.R. § 112.2, with the largest storage tank containing 960,000 gallons of corn oil. The alleged violations include Cargill's failure to develop and submit FRPs to EPA, the failure to conduct response drills and exercises, and the storage of oil without FRPs being in place. Respondent has reached agreement with EPA on the terms of a proposed Consent Agreement/Final Order which would resolve this matter. Under the proposed Consent Agreement/Final Order, Respondent will pay a civil penalty of \$187,500. Final approval of the proposed Consent Agreement/Final Order is subject to the requirements of 40 C.F.R. § 22.45.

The EPA will receive written comments on the proposed Administrative Penalty Assessment for a period of thirty (30) days from the date of publication of this notice. All such comments shall be submitted to the Regional Hearing Clerk at the address provided below. The procedures by which the public may submit

written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. Persons wishing to obtain additional information on the proceeding, receive a copy of EPA's Consolidated Rules, review the [proposed Consent Agreement/Final Order \(PDF\)](#) (12 pp., 1.49MB, [About PDF](#)), comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Kathy Robinson, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas, 66219. Please reference Docket No. CWA-07-2014-0082. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to forty (40) days from the date of this notice.

7/29/14
Date

/s/ John J. Smith for
Becky Weber
Director, Air and Waste Management Division
U.S. Environmental Protection Agency
Region 7