



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL - 2 2015

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stacy Schmidt, MPH, MS
Director, Corporate Hazard Management
The Andersons, Inc.
P.O. Box 119
Maumee, Ohio 43537.

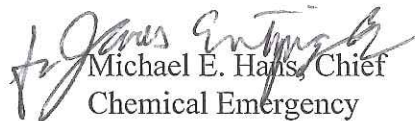
RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-15-ESA-035
Docket No. **CAA-05-2015-0046**

Dear Mr. Schmidt:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

DOCKET NO: RMP-15-ESA-035

CAA-05-2015-0046

This ESA is issued to: The Andersons, Inc.

at: 1090 Homer Road, Litchfield, Michigan 49252

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



EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and the Andersons, Inc. (“Respondent”), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly “the Parties”) have agreed that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement (“ESA”) and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA’s authority under Sections 113(a)(3) and (d) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA (“Complainant”) has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On October 14, 2014, an authorized EPA representative conducted a compliance inspection of The Andersons, Inc., located at 1090 Homer Road, Litchfield, Michigan 49252 (“Facility”) to determine its compliance with the Risk Management Plan (“RMP”) regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the October 14, 2014 inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.39(e) Respondent failed to maintain records that included the data used to identify environmental receptors potentially affected by the worst case and alternative release scenarios.
2. 40 C.F.R. § 68.48 Respondent failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices. Specifically the 30,000 gallon storage vessel’s name plate was painted over and therefore illegible.

3. 40 C.F.R. § 68.50(a)(2) Respondent failed to adequately identify in their hazard review dated October 24, 2013, opportunities for equipment malfunctions or human errors that could cause an accidental release.
4. 40 C.F.R. § 68.50(a)(2) Respondent failed to adequately identify in their hazard review dated October 24, 2013, the safeguards used or needed to control the hazards or prevent equipment malfunctions or human error.
5. 40 C.F.R. § 68.50(a)(2) Respondent failed to adequately identify in their hazard review dated October 24, 2013, steps used or needed to detect or monitor releases.
6. 40 C.F.R. § 68.50(d) Respondent failed to update the hazard review once every five years.
7. 40 C.F.R. § 68.52(b)(3) Respondent failed to develop written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and that addressed temporary operations.

SETTLEMENT

In consideration of Respondent's full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$5,400**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$5,400** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-15-ESA-035.)

This signed original ESA and **a copy of the check must be sent by certified mail to:**

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (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 in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

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

FOR RESPONDENT:

Signature: 


Date: 6/16/15

Name (print): STACY SCHMIDT

Title (print): DIRECTOR, CORPORATE HAZARD MANAGEMENT

Respondent

FOR COMPLAINANT:


Richard C. Karl, Director

Date: 7/1/15

Superfund Division

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Date: 7-2-2015

Susan Hedman
Regional Administrator

In the matter of: The Andersons, Inc.
Docket Number: CAA-05-2015-0046

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, which was filed on July 2, 2015, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Stacy Schmidt
Director, Corporate Hazard Mangement
The Andersons, Inc.
480 W. Dussel Drive
Maumee, Ohio 43537

Copy by e-mail to
Complainant:

Steven Kaiser
kaiser.steven@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

July 2, 2015 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7011 1150 0000 2640 4710