



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2009-0007

This ESA is issued to: Taygold Cooperative

At: 701 East Van Buren, Lenox, Iowa 50851

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

The United States Environmental Protection Agency, Region 7 (EPA) and Taygold Cooperative, 701 East Van Buren, Lenox, Iowa 50851 (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 Taygold Cooperative, 701 East Van Buren, Lenox, Iowa 50851.

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 Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On July 28, 2008, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 701 East Van Buren, Lenox, Iowa 50851, 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 **\$2,140.00**.

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 **\$2,140.00** 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-07-2009-0007, 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 5th 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 5th 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:

Thomas Esser

Date: 4-3-09

Name (print): Thomas Esser

Title (print): General Manager
Taygold Cooperative

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 4/17/09



Sarah Thibos LaBoda
Assistant Regional Counsel
EPA Region 7

Date: 4/9/09

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

Karina Borrromeo

Karina Borrromeo
Regional Judicial Officer

Date: April 21, 2009

Risk Management Program Inspection Findings

Taygold Cooperative
701 East Van Buren
Lenox, Iowa 50851

CAA § 112(r) Violations

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

General

Management [§ 68.15(c)]

The owner or operator failed to document other persons responsible for implementing individual requirements of the risk management program and define the lines of authority through an organization chart or similar document.

\$300.00

How was this addressed: Have Hired RCI and Set up New
List of Responsibilities and am now getting up updated
Risk Management Plans for our 3 Ammonia plants 2 in Charles
and 1 in Lenox.

Prevention Program

Safety Information [§ 68.48(b)]

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices.

\$750.00

How was this addressed: RCI is keeping us going in
The Right Direction

Prevention Program

Hazard Review [§ 68.50(a)]

The owner or operator failed to conduct a review of the hazards associated with the regulated substances, processes and procedures.

\$450.00

VIOLATIONS

PENALTY AMOUNT

How was this addressed: Through a new site assessment
at each location

Prevention Program

Hazard Review [§ 68.50(c)]

The owner or operator failed to document the results of the review. \$150.00

How was this addressed: Site Assmt did this

Prevention Program

Operating Procedures [§ 68.52(b)]

The owner or operator failed to prepare procedures that address the following:

- | | |
|--|----------|
| (1) Initial startup | \$600.00 |
| (4) Emergency shutdown and operations | \$600.00 |
| (5) Normal shutdown | \$600.00 |
| (6) Startup following a normal or emergency shutdown or a major change that requires a hazard review | \$600.00 |

How were these addressed: Now posted on wall in Denae
was always posted in Clearfield

Prevention Program

Compliance Audits [§ 68.58(c)]

The owner or operator failed to develop a report of the audit findings. \$150.00

How was this addressed: Had to show Results of Site Assment

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Compliance Audits [§ 68.58(d)]

The owner or operator failed to promptly determine and document an appropriate response to each of the findings of the audit and document that deficiencies have been corrected. \$150.00

How was this addressed: Now Being Done & Sent to you

Risk Management Plan [§ 68.195(b)]

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). \$1,000.00

How was this addressed: New Plan Now being written for total
New People Now Listed in Plan Plans will be completed and
with RCI when completed
They must be ReDone in 2009 Anyway

Total Unadjusted Penalty \$5,350.00

Calculation of Adjusted Penalty

The number of employees at Taygold Cooperative is 8. The total amount of anhydrous ammonia present at the facility is 400,000 pounds. The threshold quantity for liquid ammonia is 10,000 pounds. A size-threshold multiplier of 0.4 can be used for private industry that has 6-20 employees and greater than 10 times the threshold quantity listed in 40 C.F.R. § 68.130 for the particular chemical. Adjusted Penalty = \$5,350.00 (unadjusted penalty) X 0.4 (size-threshold multiplier) is \$2,140.00. An adjusted penalty of \$2,140.00 shall be assessed to Farm Service Company for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL ADJUSTED PENALTY \$2,140.00

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

The approximate cost to correct the above items: \$ 5000⁰⁰

Compliance staff name: Tom Esser

Signed: Tom Esser Date: 4-6-09

IN THE MATTER OF Taygold Cooperative, Respondent
Docket No. CAA-07-2009-0007

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:

Sarah LaBoda
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Thomas Esser, General Manager
Taygold Cooperative
701 East Van Buren
Lenox, Iowa 50851

Dated: 4/21/09


Kathy Robinson
Hearing Clerk, Region 7