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# Risk Management Program/Clean Air Act Enforcement: U.S. Environmental Protection Agency and Chattanooga, Tennessee Facility Enter into Consent Agreement

## Arkansas Environmental, Energy, and Water Law Blog

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The United States Environmental Protection Agency (“EPA”) and ZECO, Inc. (“ZECO”) entered into a December 13<sup>th</sup> Consent Agreement (“CA”) addressing alleged violations of the Clean Air Act Chemical Accident Prevention regulations.

ZECO is stated to operate a facility classified as a Clean Air Act stationary source in Chattanooga, Tennessee.

Section 112(r) of the Clean Air Act addresses the prevention of releases of substances listed in Section 112(r)(3) of that statute. The purpose of this provision is to prevent the accidental release of extremely hazardous substances and to minimize the consequences of such releases.

The regulations promulgated by EPA to implement this program are the Chemical Accident Prevention Provisions. These regulations require the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a “process” as defined in 40 C.F.R. § 68.3, to develop and implement a Risk Management Plan (RMPlan) that includes certain information.

EPA alleges that at the time of its inspection ZECO had a RMProgram level 2 covered process that stores or otherwise uses peracetic acid. The applicable threshold of 10,000 pounds was allegedly exceeded.

ZECO is also alleged to at the time of the inspection have used the maximum inventory of the regulated substance to determine the worst case release scenario instead of the greatest amount held only in a single vessel. Further, the company is alleged to have not provided records satisfactory to EPA relative to ZECO’s consideration or review of the hazards associated with a regulated substance.

Inventory records allegedly indicated the facility stores over 10,000 pounds of peracetic acid as part of its process beginning January 2013. However, ZECO is stated to have not submitted a RMPlan until March 3, 2014.

The CA specifically alleges that ZECO violated the Chemical Accident Prevention Provisions by:

- Failing to determine the worse case release quantity using the greatest amount held only in a single vessel as required by 40 C.F.R. § 68.25(b)(1)

- Failing to conduct a review of the hazards associated with the regulated substance as required by 40 C.F.R. § 68.50(a)(1)
- Failing to submit a single RMP as required by 40 C.F.R. § 68.150(a), prior to March 3, 2014

ZECO neither admits nor denies the factual allegations in the CA.

The CA assesses a civil penalty of \$59,850.

[A copy of the CA can be downloaded here.](#)