



REGION 6

DALLAS, TX 75270

December 21, 2023

FILED

23 DEC 27 PM 2:49

REGIONAL HEARING CLERK
EPA REGION VI

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: CAA 06-2024-3310

This ESA is issued to: DXI Industries, Inc.

At: 1919 Jacintoport Blvd., Houston, TX 77015

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

The United States Environmental Protection Agency (EPA), through its delegated official, the Director of the Enforcement and Compliance Assurance Division, and DXI Industries, Inc. (Respondent) have agreed to a settlement of this action before filing 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 and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). 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 the EPA's policies¹ are appropriate for administrative penalty action.

ALLEGED VIOLATION

From July 19-21, 2022, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located in Houston, Texas to determine compliance with the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The EPA found that Respondent had violated a RMP regulation and Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), as follows:

- 1) 40 C.F.R. § 68.73(d)(4) Mechanical Integrity - (d) Inspection and Testing.** *(4) The owner or operator shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.*

¹ "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," 40 C.F.R. Part 68" (2004); and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions" (2013)

SETTLEMENT

In consideration of the factors set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the criteria set forth in the EPA's policies¹, and upon consideration of the entire record, EPA and Respondent enter into this ESA to settle the violation, described above, for the total penalty amount of **\$900.00**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein, 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 CAA, 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 statement to the United States Government, that Respondent has corrected the violation listed above and has paid the full penalty of **\$900.00** by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979078
St. Louis, MO 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

The Docket Number of this ESA is **CAA-06-2024-3310** and must be included on the payment. **The signed ESA and a copy of the payment must be sent by email to: flores.carlos@epa.gov.**

Full payment of the ESA penalty shall only resolve Respondent's civil liability for the violation alleged above. The EPA does not waive any other enforcement action by EPA for any other past, present, or future violations under the CAA or any other statute.

If the signed ESA with a copy of the payment is not returned to the EPA Region 6 at the above e-mail address in correct form by Respondent within 30 days of the date of the receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violation identified in this ESA.

This ESA is binding on the EPA and Respondent and is effective upon filing with the Regional Hearing Clerk.

The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this ESA, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA: flores.carlos@epa.gov

To Respondent: JMONTANIO@dxgroup.com

SIGNATURE BY RESPONDENT:

Signature: Joy Montanio

Date: 12/20/2023

Name (print): Joy Montanio

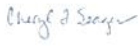
Title (print) EHSS Manager

Cost of Corrective Actions: \$0.00

Respondent's Brief Description of Complying Action: The document reviewed was for AVO checks for Air Permit, not a RMP Mechanical Integrity document, and one day was missing from July holiday that could not be located. Reviewed the importance of completing forms and placing them where they belong once completed so they are readily accessible when needed. _____

If you need additional space or would like to provide additional supporting documentation, please attach to this document.

SIGNATURE BY EPA:



Digitally signed by CHERYL
SEAGER
Date: 2023.12.21 14:27:23 -06'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

It is so ORDERED. This Order shall become effective upon filing of the fully executed ESA with the Regional Hearing Clerk.



Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify, on the date identified below, a true and correct copy of the foregoing Expedited Settlement Agreement was delivered to the Regional Hearing Clerk, U.S. EPA Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to EPA:

flores.carlos@epa.gov

Copy via Email to Respondent:

JMONTANIO@dxgroup.com

Joy Montanio
Environmental, Health, Safety, and Security Manager
DPC / DXI / Petra / CSP
P.O. Box 24600
Houston, Texas 77229-4600

Copy via Email to Regional Hearing Clerk:

vaughn.loreana@epa.gov

Date: _____

CARLOS FLORES

Digitally signed by CARLOS
FLORES
Date: 2023.12.27 15:35:51 -06'00'

United States Environmental Protection Agency,
Region 6