



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

FILED

2019 AUG 15 AM 11:49

REGIONAL HEARING CLERK
EPA REGION VI

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: CAA 06-2019-3502

This complaint is issued to: Surlean Food

At: 3551 Dan Morton Dr., Dallas, Texas, 75236 for violating Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 6, by its duly delegated official, the Director, Enforcement and Compliance Assurance Division, and by Surlean Food (Respondent) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA and the United States Department of Justice have jointly determined that EPA may pursue this type of case as an administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

On March 28, 2019, an authorized representative of the EPA conducted a compliance inspection of the subject facility (Respondent) to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act, 42 U.S.C. § 7412(r). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act, 42 U.S.C. § 7412(r), by failing to comply with the regulations as noted:

- 1) 40 C.F.R. §§ 68.195(b) "Emergency Contact Information – Beginning June 21, 2004, within one month of any change in the emergency contact information required under § 68.160(b)(6), the owner or operator shall submit a correction of that information." The Respondent acknowledged that the emergency contact information had not been updated within 30 days of the change. Therefore, the Respondent failed to update their RMP emergency contact information within the required time.

SETTLEMENT

In consideration of factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including 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 above for the total penalty amount of **\$1,000.00**. 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 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 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 above and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1,000.00** 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, MO 63197-9000

The DOCKET NUMBER OF THIS ESA must be included on the certified check. (The DOCKET NUMBER is located at the top left corner of this ESA.). **This original Settlement Agreement and a copy of the certified check must be sent by certified mail to:**

Elizabeth Rogers
RMP Enforcement Officer
Enforcement and Compliance Assurance Division (ECDAC)
U. S. Environmental Protection Agency Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102

Respondent's full payment of the penalty as provided in this Settlement Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged above. EPA does not waive any enforcement action by EPA for any other past, present, or future violations under the Act or any other statute.

If the Settlement Agreement with an attached copy of the certified check is not returned to the EPA Region 6 office at the above address in correct form by the Respondent within 30 days of the date of the receipt of this Settlement Agreement, the Complaint and Expedited Settlement Agreement is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violations identified in this Settlement Agreement.

Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this complaint pursuant to 40 CFR § 22.14. Upon signing and returning of this Settlement Agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A).

This Settlement Agreement is binding on the EPA and the Respondent signing below. By signing below, the Respondent waives any objections to EPA's jurisdiction with respect to the Settlement Agreement and consents to EPA's approval of this Settlement Agreement without further notice. This Settlement Agreement is effective upon filing with the Regional Hearing Clerk.

SIGNATURE BY RESPONDENT:

Signature: Pablo Hernandez

Date: 8/5/19

Name (print): Pablo Hernandez

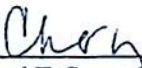
Title (print): VP of operations

Cost of Correction Actions: \$0

Respondent's Brief Description of Complying Action: Revised Emergency
Contact in CDX.

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

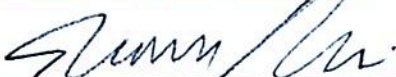
SIGNATURE BY EPA:



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Date: 8/13/19

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



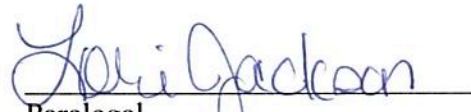
Thomas Rucki
Regional Judicial Officer

Date: 8/15/19

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of Aug. 2019, the original of the foregoing Final Order of Clean Air Act, Section 112(r) Expedited Settlement Agreement was hand delivered to the Regional Hearing Clerk, U. S. EPA, Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270, and that a true and correct copy was placed in the United States mail, first class postage prepaid, addressed to the following:

Mr Pablo Hernandez
VP of Operations and Maintenance
Surlean Food
2001 S. Laredo Street
San Antonio, TX 78207



Paralegal
Office of Regional Counsel
US EPA - Region 6