



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

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: CAA 06-2019-3509

**This complaint is issued to: Oxiteno Pasadena Plant
At: 9801 Bay Area Boulevard, Pasadena, Texas 77507
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 delegated official, the Director, Enforcement and Compliance Assurance Division, and by the Oxiteno Pasadena Plant (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 April 16, 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. § 68.15 "Management"** – States the owner or operator of a stationary source with processes subject to Program 2 or Program 3 shall develop a management system to oversee the implementation of the risk management program elements.

The Respondent provided a management system for its overall corporate structure; however, they were in violation of 40 C.F.R. § 68.15 by failing to provide the risk management program elements.

- 2) **40 C.F.R. § 68.67(e) "Process Hazard Analysis"** – States the owner or operator shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

The Respondent violated 40 C.F.R. § 68.67(e) by failing to produce documentation that addresses resolutions to the PHA findings and recommendations.

- 3) **40 C.F.R. § 68.71(a) "Training"** – States that each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in the operating procedures.

The Respondent violated C.F.R. § 68.71(a) by failing to provide documentation of employees operating a process. EPA inspector requested training documentation for a production supervisor.

Respondent was unable to produce this documentation.

- 4) **40 C.F.R. § 68.71(c)** "Training" - States the owner or operator shall ascertain that each employee involved in operating a process has received and understood the training. Also, the owner or operator shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

The Respondent violated 40 C.F.R. § 68.71(c) by failing to provide training documentation that included the required elements listed.

- 5) **40 C.F.R. § 68.75(b)(4)** "Management of change" – States that the owner or operator shall establish and implement written procedures to manage changes. The procedures shall assure that the following consideration are addressed prior to any change and necessary time period for the change: (4) Necessary time period for the change.

The Respondent's MOC procedure states that for temporary changes, the MOC coordinator must choose an expiration date by which the time change, and all associated conditions shall be removed, extended or made permanent. The Respondent had temporary changes that lasted longer than the designated expiration date. Therefore, the Respondent violated 40 C.F.R. § 68.75(b)(4) by failing to implement its MOC procedures.

- 6) **40 C.F.R. § 68.81(e)** "Incident investigation" - States the owner or operator shall establish a system to promptly address and resolve the incident report findings and recommendations. Resolutions and corrective actions shall be documented.

The Respondent violated 40 C.F.R. § 68.81(e) by failing to provide documentation addressing incident report findings and recommendations.

- 7) **40 C.F.R. § 68.83(a)** "Employee participation" States the owner or operator shall develop a written plan of action regarding the implementation of the employee participation.

The Respondent's written plan of action requires the facility manager to distribute a letter soliciting continuing employee participation; however, the letter was never distributed. Respondent violated 40 C.F.R. § 68.83(a) by failing to implement all the requirements of its employee participation plan.

- 8) **40 C.F.R. § 68.95(a)(2)** "Emergency response program" – States the owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment. The program must also include procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.

The Respondent violated 40 C.F.R. § 68.95(a)(2) by failing to include such procedures in their response plan.

SETTLEMENT

In consideration of the factors set forth in Section 113 of the Act, 42 U.S.C. § 7413, 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 \$7,500.00. 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 \$7,500.00 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

Or

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fed-wire message should read "D 68010727 Environmental Protection Agency" with a phone number of (412) 234-4381.

The DOCKET NUMBER OF THIS ESA must be included on the certified check. (The DOCKET NUMBER is located at the top of this ESA). **The original Settlement Agreement and a copy of the certified check must be sent by 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 75270-2101

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 ESA 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 C.F.R. § 22.41. 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. 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:



Date: September 30, 2019

Name (print): Dr. Christopher Quinn, Ph.D.

Title (print) Director of Operations

Cost of Corrective Actions: Not Applicable - No capital expenditure

Respondent's Brief Description of Complying Action: _____

See attached description of complying actions.

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

19 OCT -9 AM 9:30
REGISTRATION DIV.
EPA REGION 6 OFFICE

In the Matter of Oxiteno Pasadena Plant
Docket No. CAA 06-2019-3509

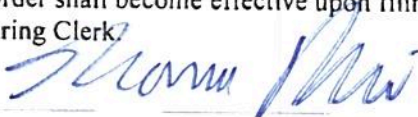
SIGNATURE BY EPA:



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Date: 10/16/19

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



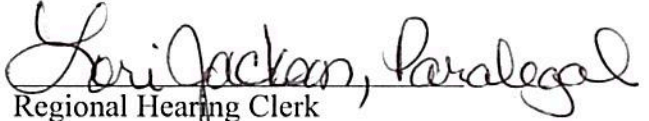
Thomas Rucki
Regional Judicial Officer

Date: 10/17/19

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of Oct., 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. Andrew Armitage
EHS Engineer
9801 Bay Area Boulevard
Oxiten Pasadena Plant
Pasadena, TX 77507


Regional Hearing Clerk
Office of Regional Counsel
US EPA - Region 6