UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2017-0147
This ESA is issued to: E.C. Phillips and Son, Inc.
1775 Tongass Avenue
Ketchikan, Alaska

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, 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 Summary for the total penalty amount of **$5,760.**

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 in the Summary, 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 Respondent has corrected the violations listed in the enclosed Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of $5,760 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 the ESA must be included on the check. (The docket number is located at the top of this ESA.)

This original ESA and a copy of the check must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101
Seattle, Washington 98101

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to 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 at the above address by 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 Summary.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: Paul J Cyr Date: 8-17-17
Name (print): PAUL J CYR
Title (print): GENERAL MANAGER
Cost to correct violation(s): $5760.00

FOR COMPLAINANT:

Kimberly A. Ogle for Date: 8/25/17.
Edward J. Kowalski
Director
Office of Compliance and Enforcement

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

M Socorro Rodriguez Date: 8/29/17
M. Socorro Rodriguez
Regional Judicial Officer

U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary
Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME E.C. Phillips and Son, Inc.	☒ PRIVATE ☐ GOVERNMENTAL/MUNICIPAL # EMPLOYEES 45 POPULATION SERVED:
FACILITY LOCATION 1775 Tongass Avenue, Ketchikan, Alaska 99901	INSPECTION START DATE AND TIMED: August 24, 2016, 08:30 AM
MAILING ADDRESS P.O. Box 7695, Ketchikan, Alaska 99901	INSPECTION END DATE AND TIME: August 24, 2016, 3:00 PM
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER Paul Cyr, General Manager, (907) 247-7975	EPA FACILITY ID# 1000 0003 5678
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S) Paul Cyr, General Manage, (907) 247-7975	INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Peter Phillips, SEE Grantee RMP Lead Inspector, 206-553-1757 Terry Garcia, SEE Grantee RMP Inspector, 206-553-1761 Bob Hales, SEE Grantee RMP Inspector, 206-553-4090 Jim Petersen, E&E Inc., EPA START Contractor INSPECTOR SIGNATURE Jamie Monks for Peter Phillips DATE 8/25/17

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 C.F.R. § 68)? ☒ YES ☐ NO

DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185? ☒ YES ☐ NO
DATE RMP FILED WITH EPA: 06/14/1999 DATE OF LATEST RMP UPDATE: 06/11/2009

1) PROCESS/NAICS CODE: 31171
REGULATED SUBSTANCE: Ammonia (anhydrous)
PROGRAM LEVEL: 1☐ 2☐ 3☒
MAX. QUANTITY IN PROCESS: 46,406 (lbs)

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

Three EPA representatives and an EPA contractor inspected the E.C Phillips and Son, Inc. facility on August 24, 2016. Based upon this inspection the E.C Phillips and Son, Inc. facility is in violation of the following risk management program elements:

1. E.C. Phillips and Son process safety information failed to include information pertaining to the electrical classification of the ammonia refrigeration process equipment as required in 40 C.F.R. § 68.65(d)(1)(iii). During the inspection, E.C. Phillips and Son was unable to produce documentation on the electrical classification for the process equipment in the engine room.
2. E.C. Phillips and Son process safety information failed to include information pertaining to the ventilation system design of the ammonia refrigeration process as required in 40 C.F.R. § 68.65(d)(1)(v). During the inspection, E.C. Phillips and Son was unable to produce documentation on the ventilation system design for the process equipment in the engine room.
3. E.C. Phillips and Son failed to establish a system to promptly address the teams findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be taken; completed the actions a soon as possible; developed a written schedule of when these actions are to be completed; and communicated the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations as required in 40 C.F.R. § 68.67(e). E.C. Phillips and Son did not implement recommendations identified in their 2014 PHA such as writing procedures to change out safety relief valve (SRVs) and conduct piping corrosion inspections.
4. E.C. Phillips and Son operating procedures failed to address consequences of deviation as required in 40 C.F.R. § 68.69(a)(2)(i). During the inspection, E.C. Phillips and Son was unable to produce documentation on the consequences of deviation for the operating limits on process equipment for the ammonia refrigeration process.
5. E.C. Phillips and Son operating procedures failed to address steps required to correct or avoid deviation as required in 40 C.F.R. § 68.69(a)(2)(ii). During the inspection, E.C. Phillips and Son was unable to produce documentation on the steps required to correct or avoid deviation for the operating limits on process equipment for the ammonia refrigeration process.

(Cont'd on Page 2)

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

6. E.C. Phillips and Son operating procedures failed to address safety systems and their functions as required in 40 C.F.R. § 68.69(a)(4). During the inspection, E.C. Phillips and Son was unable to produce documentation on the safety systems and their functions for the ammonia refrigeration process.
7. E.C. Phillips and Son failed to establish and implement written procedures to maintain the on-going integrity of the ammonia refrigeration process equipment listed in 68.73(a), as required in 40 C.F.R. § 68.73(b). During the inspection, E.C. Phillips and Son was unable to produce written documentation on inspection and testing of safety relief valves (SRVs) and the piping systems addressing corrosion.
8. E.C. Phillips and Son failed to follow recognized and generally accepted good engineering practices for inspections and testing procedures as required in 40 C.F.R. § 68.73(d)(2). During the inspection, E.C. Phillips and Son was unable to show that they follow recognized and generally accepted good engineering practices for inspection and testing procedures for the on-going integrity of the ammonia refrigeration process equipment.
9. E.C. Phillips and Son failed to ensure the frequency of inspections and tests of process equipment is consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience as required in 40 C.F.R. § 68.73(d)(3). During the inspection, E.C. Phillips and Son was unable to produce documentation outlining the frequency of inspections and testing consistent with applicable manufacturers' recommendation, good engineering practices, and prior operating experience for ammonia refrigeration process equipment.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES? ☒ YES ☐ NO

ATTACHED CHECKLIST(S):

☐ PROGRAM LEVEL 1 PROCESS CHECKLIST ☐ PROGRAM LEVEL 2 PROCESS CHECKLIST ☒ PROGRAM LEVEL 3 PROCESS CHECKLIST

OTHER ATTACHMENTS: _____

Region 10 - CAA 112(r) EPA Report

CCDS (Case Conclusion Data Sheet)

Conclusion ID: 1755

A. CASE INFORMATION:

1. Case Name (facility name): EC Phillips and Son Inc.
2. Enforcement DOCKET System # / Regional Hearing Clerk Admin Docket # **CAA-10-2017-0147**
3(a). Regional Attorney: Bob Hartman
3(b). EPA Case Developer: Javier Morales
4. Statute(s) and Section(s) violated (Not authorizing section or CFR):
   Statute Violation: 42 USC 7412(r)- CAA Section Violation: CAA 112(r)(7) RMP Facilities
   CORE Priority
5. Authorizing section for administrative actions:
6. Administrative / Judicial Action Date:
   Administrative Action Date: Issued/Filed: Final Order:
   Civil judicial action date: Settlement Lodged Date: Settlement Entered Date:
7. Was this a multi-media action? NoAns
8. Regional / National Priority: Doesn't Apply
9. Small Business: NO

B. FACILITY INFORMATION:

10. Facility Name: EC Phillips and Son Inc., Ketchikan
11. Facility Street: 1775 Tongass Ave Facility City: Ketchikan Facility State: AK Facility Zip Code: 99901
12. NAIC 5/6 digit code: 311712 Fresh and Frozen Seafood Processing
13. EPA Program 12-digit RMP ID # for the Facility: 100000035678

C. CASE CONCLUSION INFORMATION:

14. Was Alternative Dispute Resolution used in this action? NoAns
    14(a). Action Type: CAA 113(d) Administrative Action (includes administrative order, civil penalty) – Expedited Settlement Agreement

    ESA/CEP X using the Expedited Settlement Agreement using the Combined Enforcement Policy

    14(b) Section Violation: CAA 112(r)(7) RMP Facilities
    CORE Priority

D. CASE CONCLUSION - COMPLIANCE ACTION:

15(a) What action did violator accomplish prior to receipt of settlement/order or will take to return to compliance or meet additional requirements? This may be due to settlement/order requirements or otherwise required by statute or regulation. Include actions completed prior to the final settlement/order and actions to be taken by violator to return to compliance or meet additional requirements. Where separate penalty and/or compliance orders are issued in connection w/same violations(s), report the following information for only one of those orders. Select response(s) from the following:

Physical Actions:

Non-Physical Actions:
Permit (RMP) Application
Record Keeping

Other (must describe):

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15(b). Specific regulations (eg. 68.130) that were corrected based on the enforcement:
68.65(d)(1)(iii), 68.65(d)(1)(v), 68.67(e), 68.69(a)(2)(i), 68.69(a)(2)(ii), 68.69(a)(4), 68.73(b), 68.73(d)(2), 68.73(d)(3)

16. Cost of actions described in item #15(a). (Actual cost data supplied by violator is preferred figure.)
Physical Actions: $0.00 Non-Physical Actions: $0.00

17. Quantitative environmental impact of actions described in item #15(a):

Pollutant/Chemical/Waste Stream:	Annual Amount:	Unit:	Media:
Anhydrous Ammonia	46406	pounds	air

18. Compliance order action and due date:
Compliance Order Action: Due Date:

E. CASE CONCLUSION - SUPPLIEMENTAL ENVIRONMENTAL PROJECT (SEP) INFORMATION:

19. Categories of SEP(s):

20. SEP description:

21. Cost of SEP (Cost calculated by the Project Model is required): $0.00

22. Quantitative environmental impact of SEP: pollutants and/or chemicals and/or waste-streams, and amount of reductions/eliminations (e.g.,
Pollutant/Chemical/Waste Stream: Annual Amount: Unit: Media:

23. Assessed Penalty $: $5,760.00

24. For multi-media actions, Federal Penalty Assessed by statute:

Statute:	Amount:
	$0.00
	$0.00
	$0.00

Last Modified: 8/25/2017 2:55:50 PM Last Modified By: MoralesJ

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: E.C. Phillips and Son, Inc., Docket No.: CAA-10-2017-0147**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, OCE-101
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Paul Cyr, General Manager
E.C. Phillips and Son, Inc.
1775 Tongass Avenue
Ketchikan, Alaska 99901

DATED this 30 day of August, 2017

Teresa Young
Regional Hearing Clerk
EPA Region 10