



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

08 SEP 18 AM 8:32  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2008-0032

**This ESA is issued to:** Hydrite Chemical Co.

**At:** 2815 WCF&N Drive, Waterloo, Iowa 50703

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

---

The United States Environmental Protection Agency, Region 7 (EPA) and Hydrite Chemical Co., 2815 WCF&N Drive, Waterloo, Iowa 50703 (Respondent), have agreed to a settlement of this action before filing of 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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, and Waste Management Division. The Respondent is Hydrite Chemical Co., 2815 WCF&N Drive, Waterloo, Iowa 50703.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

#### ALLEGED VIOLATIONS

On November 13, 2007, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 2815 WCF&N Drive, Waterloo, Iowa 50703, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (RMP Findings), 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 RMP Findings, for the total penalty amount of **\$1,140**.

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 in herein and in the RMP Findings, 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 Clean Air 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 in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$1,140** 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, Missouri 63197-9000

The Docket Number of this ESA is CAA-07-2008-0032, and must be included on the check.

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

Deanna Smith  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP

Findings. The EPA does not waive 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 Region 7 office at the above address in correct form by the 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 RMP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

  
\_\_\_\_\_

Date: 9/11/08

Name (print): THOMAS J. MIAZGA

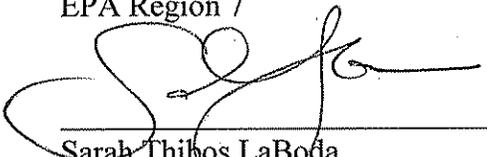
Title (print): DIR SAFETY, QUALITY & REG. AFFAIRS  
Hydrite Chemical Co.

FOR COMPLAINANT:

  
\_\_\_\_\_

for Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 9/15/08

  
\_\_\_\_\_

Sarah Thibos LaBoda  
Assistant Regional Counsel  
EPA Region 7

Date: 9/15/08

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

Karina Borromeo

Karina Borromeo  
Regional Judicial Officer

Date: Sept. 18, 2008

## Risk Management Plan Inspection Findings

Hydrite Chemical Co.  
2815 WCF & N Drive  
Waterloo, IA 50703

CAA § 112(r)

### Violations

### Penalty Amount

#### **Prevention Program**

##### **Process Hazard Analysis [68.67]**

\$300

The owner or operator failed to retain process hazard analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e) of this section for the life of the process. [§ 68.67(g)]

#### *How was this addressed?*

- 1) A record of completed PHAs for each covered process is maintained onsite in the PSM SOP manual. Each PHA is assigned a unique title and/or number. All PHAs are also electronically maintained locally and backed up on the Corporate server.
- 2) Verification of adequate documentation of resolutions resulting from recommended maintenance and changes resulting from MOCs and PHAs is documented and similarly maintained.

#### **Prevention Program**

##### **Operating Procedures [68.69]**

\$600

The owner or operator failed to review the operating procedures as often as necessary to assure that they reflect current operating practice, including changes that result from process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator failed to certify annually that these operating procedures are current and accurate. [§ 68.69(c)]

#### *How was this addressed?*

- 1) The review frequency for PSM operating procedures was corrected from 'every 3 years' to 'Annual' in 2006, and remains in affect.
- 2) PSM operating procedures are tracked electronically as controlled documents with an annual review requirement. These documents are redistributed for review at least annually or sooner upon change. The complete review history of each document is archived at the Corporate office.

Violations

Penalty Amount

**Risk Management Plan**

**Required Corrections [68.195]**

\$1000

When the emergency contact information required at 68.160(b)(6) changed, The owner or operator failed to submit corrected information within one month of the change.

[§ 68.195(b)]

*How was this addressed?*

- 1) The changes to the Emergency Contact information were made on 11/7/07 and are still current.
- 2) The RMP Compliance Maintenance SOP includes a requirement that the RMP plan be updated within one month of a change to any Emergency Contact information.

Total Unadjusted Penalty \$1,900

Calculation of Adjusted Penalty

1<sup>st</sup> Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix for Private Industry. Number of employees is 21 – 50 and the threshold quantity falls into the 10 times range, which gives a multiplier factor of 0.6.

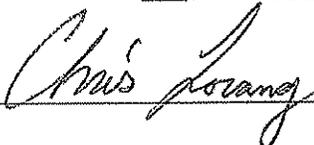
2<sup>nd</sup> Adjusted Penalty = \$1,900 (Unadjusted Penalty) X 0.6 (Size – Threshold Multiplier) is \$1,140.

3<sup>rd</sup> An Adjusted Penalty of \$1,140 would be assessed to Hydrite Chemical Co. for Violations found during RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL ADJUSTED PENALTY \$1,140

The approximately cost to correct the above items: \$ 100.00

Compliance staff name: Chris Lorang

Signed:  Date: 9/11/08

IN THE MATTER OF Hydrite Chemical Co., Respondent  
Docket No. CAA-07-2008-0032

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Sarah Thibos LaBoda  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Original by Certified Mail Return Receipt to:

Thomas J. Miazga  
Director Safety, Quality & Reg. Affairs  
2815 WCF&N Drive  
Waterloo, Iowa 50703

Dated: 9/18/08



Kathy Robinson  
Hearing Clerk, Region 7