



REGION 2

NEW YORK, N.Y. 10007

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-02-2025-1212

This ESA is issued to: Mays Chemical Company of Puerto Rico Inc. d/b/a Mays Ochoa
Road PR-869, St. 2 #515 Palmas Ward
Westgate Industrial Park
Cataño, PR 00962

This Expedited Settlement Agreement ("ESA") is being entered into by the U.S. Environmental Protection Agency, Region 2 ("EPA"), by its duly delegated official, and Mays Chemical Company of Puerto Rico Inc. d/b/a Mays Ochoa ("Respondent") pursuant to Sections 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. §7413(a)(3) and (d), and 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).

ALLEGED VIOLATIONS

On February 8, 2023, EPA conducted an onsite inspection at Respondent's facility, located at Road PR-869, St. 2 #515 Palmas Ward, in Westgate Industrial Park, Cataño, Puerto Rico to determine compliance with the Act's Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 pursuant to Section 112(r) of the Act. Pursuant to the inspection, EPA has determined that Respondent violated the RMP regulations described in the enclosed Risk Management Program Findings ("Findings"). EPA described the violations in a letter sent by email to Respondent dated March 13, 2025.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. §7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the Findings for the total penalty amount of **fifteen thousand dollars (\$15,000)**.

For purposes of this proceeding, Respondent agrees to the following: it waives any objections that it may have regarding jurisdiction; it neither admits nor denies the specific factual allegations contained in the Findings; it consents to the assessment of the penalty as stated herein; and it waives its rights to contest the allegations contained herein, or 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 described in the Findings.

After signature, a scanned copy of the signed ESA must be sent by email to Francesco Maimone at the following email address: **Maimone.Francesco@epa.gov**. The original, signed ESA must be sent by certified mail to:

Francesco Maimone, Physical Scientist
Air Compliance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

The ESA, when executed by both parties and the Regional Judicial Officer and filed with the Regional Hearing Clerk, is binding on EPA and Respondent. Upon such filing and Respondent's timely payment of the penalty, EPA agrees it will not take any further civil penalty action against Respondent for the alleged violations of the Act referenced herein.

Nothing in this ESA shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This ESA does not relieve, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations promulgated or permits issued thereunder.

If the signed ESA is not returned to EPA, Region 2 as instructed herein by Respondent within forty-five (45) days of the date of Respondent's receipt of it (or within ninety (90) days if an extension is requested and granted), the proposed ESA is withdrawn, without any prejudice regarding EPA's ability to file an enforcement action for the alleged violations identified herein.

Respondent agrees to submit a payment in full of fifteen thousand dollars (\$15,000) within thirty (30) days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

PAYMENT INSTRUCTIONS

EPA requests that payments be made through the <https://Pay.gov> website using the following link: <https://www.pay.gov/public/form/start/11751879>.

Please ensure that the following information is included on the payment form:

- i. Amount of payment: \$15,000
- ii. Name of Respondent: Mays Chemical Company of Puerto Rico Inc. d/b/a Mays Ochoa

iii. Docket No.: CAA-02-2025-1212

To ensure your payment is recorded properly, you are required to notify EPA contemporaneously with the payment. Please send an email message or letter, preferably electronically, that references the date of the payment, the payment amount, the docket number, and your name and address to the following: Francesco Maimone, at his email or address, shown above, and to:

Jean Regna
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
email: Regna.Jean@epa.gov

Milton Wise
U.S. Environmental Protection Agency
26 W. Martin Luther King Drive
Attention: FINANCE
MS: NWD
Cincinnati, OH 45268
emails: Wise.Milton@epa.gov and cinwd_acctsreceivable@epa.gov

and

Karen Maples, Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
email: Maples.Karen@epa.gov

Failure to pay the penalty when due may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. §7413(d)(5), to collect the penalty, including accrued interest, attorney's fees, collection costs, and nonpayment penalties.

For purposes of the requirements of 26 U.S.C. §162(f) of the Internal Revenue Code, the cost of actions taken to come into compliance with the violations identified herein are "restitution or paid to come into compliance with law."

Tax Reporting. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS"), annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be

equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (*i.e.*, a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 ("Request for Taxpayer Identification Number and Certification") or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. §§ 6723 and 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at wise.milton@epa.gov, within thirty (30) days after the Effective Date of this ESA, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within thirty (30) days after the Effective Date, then Respondent, using the same email address identified in Subparagraph c., shall further:
 - i. notify EPA's Cincinnati Finance Center of this fact, via email, within thirty (30) days after the thirty (30) days after the Effective Date of this ESA; and
 - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within 5 days of Respondent's issuance and receipt of the TIN.

By signing this ESA (consent agreement), Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of this ESA (consent agreement and final order).

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

FOR RESPONDENT:

Signature: 

Date: 10/Julio/2025

Name (print): Lee K. Nieves

Title (print): Compliance Leader

FOR COMPLAINANT:

Kathleen Anderson, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 2

Date: _____

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

Dana Friedman
Regional Judicial Officer
U.S. EPA, Region 2

Date: _____

Risk Management Program Findings
CAA §112(r) Violations

Mays Chemical Company of Puerto Rico Inc. d/b/a Mays Ochoa
Road PR-869, St. 2 #515 Palmas Ward
Westgate Industrial Park
Cataño, PR 00962

COMPLETE THIS FORM AND RETURN IT WITH THE ESA

<u>VIOLATION</u>	<u>PENALTY AMOUNT</u>
<u>Subpart A General</u>	
<i>Management System [68.15(c)]</i> The owner or operator did not document the name and position of the person assigned to implement these requirements.	\$600
<u>Subpart D Prevention Program</u>	
<i>Process Safety Information [68.65(c)(1)(i)]</i> The owner or operator failed to document information pertaining to technology of the process.	\$1,200
<i>Process Safety Information [68.65(d)(1)]</i> The owner or operator did not have required Process Safety Information pertaining to equipment in the process (block flow diagrams).	\$600
<i>Process Safety Information [68.65(d)(2)]</i> The owner or operator failed to document that equipment complies with recognized and generally accepted good engineering practices.	\$1,500
<i>Process Hazard Analysis [68.67(c)]</i> The owner or operator failed to address certain hazards, engineering and administrative controls and their interrelationships, stationary source siting, and human factors in its most recent PHAs.	\$2,400
<i>Process Hazard Analysis [68.67(e)]</i> The owner or operator failed to assure that all recommendations in the PHAs were resolved in a timely manner and failed to document resolutions.	\$1,500
<i>Operating Procedures [68.69(a)]</i> The owner or operator failed to develop and implement certain operating Procedures addressing each operating phase.	\$1,500

Operating Procedures [68.69(c)]

The owner or operator failed to certify all operating procedures at least annually.

\$1,200

Training [68.71(c)]

The owner or operator failed to document that all employees involved in operating a process have received and understood the training.

\$600

Mechanical Integrity [68.73(d)(1)]

The owner or operator failed to document certain inspections and tests on process equipment.

\$1,500

Compliance Audits [68.79(a)]

The owner or operator failed to fully comply with Compliance Audit requirements regarding its most recent Compliance Audit.

\$1,200

Emergency Response [68.95(a)(2)]

The owner or operator failed to develop and implement procedures for the use, inspection, testing, and maintenance of emergency response equipment.

\$1,200

Total Penalty

\$15,000

The approximate cost to correct the above items: \$ 34,580

Compliance staff name: Leek. niuv

Signed: [Signature] Date: 10 / July / 2025

