



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

FILED

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EXPEDITED SETTLEMENT AGREEMENT (ESA)

REGIONAL HEARING CLERK
EPA REGION VI

Docket No: CAA 06-2021-3358

This ESA is issued to: Martin Operating Partnership L.P.

At: 484 East 6th Street, Smackover, Arkansas 71762

For: Violating Section 112(r)(7) of the Clean Air Act

The United States Environmental Protection Agency (EPA), through its delegated official, the Director of the Enforcement and Compliance Assurance Division, and Martin Operating Partnership L.P.¹ (Respondent) have agreed to a settlement of this action before filing 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 Practicing Governing the Administrative Assessment of Civil Penalties the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in the EPA's Policies² are appropriate for administrative penalty action.

ALLEGED VIOLATION

From February 4 - 6, 2020, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located in Smackover, Arkansas to determine compliance with the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The EPA found that Respondent had violated the RMP regulations and Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), as follows:

(1) 40 C.F.R. § 68.39(b) Documentation - "(b) For alternative release scenarios, a description of the scenarios identified, assumptions and parameters used, and the rationale for the selection of specific scenarios; assumptions shall include use of any administrative controls and any mitigation that were assumed to limit the quantity that could be released. Documentation shall include the effect of the controls and mitigation on the release quantity and rate."

(2) 40 C.F.R. § 68.69(c) Operating Procedures - "(c) The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate."

¹ 1 Martin Operating Partnership L.P. ("Martin") is an affiliate of Cross Oil Refining & Marketing, Inc. ("Cross"). Martin purchased the refinery located at 484 East 6th Street, Smackover, AR 71762 from Cross and is the current owner of such refinery.

² "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions" (2013)

- (3) 40 C.F.R. § 68.75(b)(5) Management of Change - “(b) The procedures shall assure that the following considerations are addressed prior to any change: (5) Authorization requirements for the proposed change.”
- (4) 40 C.F.R. § 68.87(b)(5) Contractors - “(5) The owner or operator shall periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in paragraph (c) of this section.”
- (5) 40 C.F.R. § 68.95(a)(1)(ii) Emergency Response Plan - “(a)(1)(ii) Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures.”
- (6) 40 C.F.R. § 68.95(a)(2) Emergency Response Plan - “(a)(2) Procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.”
- (7) 40 C.F.R. § 68.195(b) Required Corrections - “(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.”

SETTLEMENT

In consideration of the factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the criteria set forth in EPA’s policies¹, and upon consideration of the entire record, EPA and Respondent enter into this ESA in order to settle the violations, described above, for the total penalty amount of **\$5,650.00**. 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 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 violation listed above and has paid the full penalty of **\$5,650.00** by certified or cashier’s check made payable to the “United States Treasury” and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.
The Docket Number of this ESA is **CAA 06-2021-3358** and must be included on the payment. **The signed ESA and a copy of payment must be sent by email to: flores.carlos@epa.gov.**

Full payment of the ESA penalty shall only resolve Respondent’s civil monetary liability for the violations alleged above. The EPA does not waive any other enforcement action by EPA for any other past, present, or future violations under the CAA or any other statute.

If the signed ESA with a copy of the payment is not returned to EPA Region 6 at the above email address in correct form by Respondent within 30 days of the date of receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA’s ability to file additional enforcement actions for the violation identified in this ESA.

This ESA is binding on the EPA and Respondent and is effective upon filing with the Regional Hearing Clerk.

The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agrees to electronic service of this ESA, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA: clay.jeffrey@epa.gov

To Respondent: michael.foley@martinmlp.com

SIGNATURE BY RESPONDENT:

MARTIN OPERATING PARTNERSHIP L.P.,
By: Martin Operating GP LLC, its general partner
By: Martin Midstream Partners L.P., its sole member
By: Martin Midstream GP LLC, its general partner

Matt Yost

Digitally signed by Matt Yost
Date: 2021.09.15 10:32:59 -05'00'

Signature: _____

Date: _____

Name (print): _____

Title (print): _____

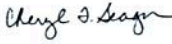
Cost of Corrective Actions: _____

Respondent’s Brief Description of Complying Action:

Respondent’s Brief Description of Complying Action is attached hereto as Exhibit A and is incorporated by reference as if fully stated herein.

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

SIGNATURE BY EPA:



Digitally signed by CHERYL SEAGER
DN: cn=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=CHERYL SEAGER,
0.9.2342.19200300.100.1.1+66001003651793
Date: 2021.09.16 09:36:57 -0500

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

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

THOMAS
RUCKI

Digitally signed by THOMAS RUCKI
DN: cn=THOMAS RUCKI, o=Illinois State Government, ou=Illinois State Government
c=US, email=trucki@isg.state.il.us
Date: 2021.09.16 12:53:31 -0500

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify, on the date identified below, a true and correct electronic copy of the foregoing Expedited Settlement Agreement was electronically delivered to the Regional Hearing Clerk, U.S. EPA Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via email to EPA: flores.carlos@epa.gov

Copy via email to Respondent: michael.foley@martinmlp.com

Copy via email to Regional Hearing Clerk: vaughn.lorena@epa.gov

United States Environmental Protection Agency
Region 6

EXHIBIT A

Martin Operating Partnership L.P.'s Brief Description of Complying Actions

- (1) 40 C.F.R. § 68.39(b) Documentation: Martin's Alternate Release Scenario analyzes a potential naphtha pool fire from a tanker truck release. Martin does not currently have the capability to transload naphtha into a railcar. Thus, Martin believes the tanker truck release presents the most likely alternate release scenario. Martin has established a mechanical integrity program for its naphtha tanks; a management of change program; hazard operability studies to evaluate risks; conducted process hazard analyses; developed written operating procedures aimed at mitigating release quantities and rates and to minimize other risks; and conducts training for employees covering all of the foregoing.
- (2) 40 C.F.R. § 68.69(c) Operating Procedures: The schedule for annual review and certification of operating procedures has been updated to 12-month timeframe and will be maintained, but will be reviewed more frequently as needed to address any changes in process chemicals, technology, equipment, or stationary sources.
- (3) 40 C.F.R. § 68.75(b)(5) Management of Change: Martin has written procedures for Management of Change ("MOC"). Martin has reviewed and updated the written procedures to ensure that the MOC will be processed and final authorizations obtained before changes are made.
- (4) 40 C.F.R. § 68.87(b)(5) Contractors: Martin utilizes the ISNetWorld system to internally vet contractors utilized by Martin. This systems grades contractors based on compliance and covers background screenings, insurance coverages, and training requirements. Each year, contractors must keep their status current by submitting re-qualification forms. Martin maintains a badge access system to the facility and contractors are shown a video and overview of the facility prior entry. Martin conducts a periodic contractor evaluation to assess contractor performance. Martin has reviewed its employees use of this ISNet system and requires strict compliance with the ISNet system and related protocols in place.
- (5) 40 C.F.R. § 68.95(a)(1)(ii) Emergency Response Plan: Martin has updated its Emergency Response Plan to include information regarding the proper first-aid and emergency medical treatment necessary to treat human exposures.
- (6) 40 C.F.R. § 68.95(a)(2) Emergency Response Plan: Martin has written procedures for the use of emergency response equipment and requires periodic inspection, testing, and maintenance of the emergency response equipment.
- (7) 40 C.F.R. § 68.195(b) Required Corrections: Martin has updated its emergency contact information and has conducted tests to ensure its 24-hour emergency number is operating and answered.