

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

| | | |
|-------------------------|---|-----------------------------|
| In the Matter of: |) | DOCKET NO. CAA-10-2025-0134 |
| |) | |
| Peshastin Hi-Up Growers |) | EXPEDITED SETTLEMENT |
| |) | AGREEMENT |
| |) | |
| Peshastin, Washington |) | |
| |) | |
| Respondent. |) | |

EXPEDITED SETTLEMENT AGREEMENT**I. STATUTORY AUTHORITY**

1. This Expedited Settlement Agreement (“ESA”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(a)(3) and (d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3) and (d).

2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, the EPA issues, and Peshastin Hi-Up Growers (“Respondent”) agrees to issuance of, the Final Order attached to this ESA (“Final Order”).

II. PRELIMINARY STATEMENT

3. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this ESA commences this proceeding, which will conclude when the Final Order becomes effective.

4. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign expedited settlement agreements between the EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

5. The EPA and the United States Department of Justice have jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, that this matter is appropriate for an administrative penalty action.

III. ALLEGATIONS

6. 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 Section 68.130) in a process to develop a Risk Management Plan (RMP) and Risk Management Program.

7. Respondent owns or operates at facility at 10225 Mill Road, Peshastin, WA 98847 that has more than a threshold quantity of Ammonia (anhydrous), a regulated substance listed in 40 C.F.R. 68.130, in a covered process.

8. 40 C.F.R. § 68.190(a) requires the owner or operator to review and update the RMP as specified in 40 C.F.R. § 68.190(b)(1) at least once every five years from the date of its initial submission or most recent update, whichever is later.

9. Respondent’s five-year update was due on March 10, 2025. The most recent RMP submission that EPA has on file is dated March 10, 2020.

10. Respondent failed to submit an updated RMP to EPA at least once every five years as required by § 68.190(a) and (b)(1).

11. Under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, the EPA may assess a civil penalty of not more than \$59,114 per day of violation.

IV. TERMS OF SETTLEMENT

12. Respondent admits the jurisdictional allegations of this ESA.

13. Respondent neither admits nor denies the specific factual allegations contained in this ESA.

14. In determining the amount of penalty to be assessed, the EPA has taken into account the factors specified in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1). After considering these factors, the EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$2,000 (the “Assessed Penalty”).

15. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

16. Payments under this ESA and the Final Order may be paid by any of the methods identified at: <https://www.epa.gov/financial/makepayment>. Payments must conform to the instructions at that web address specified for payments of civil penalties. Respondent must note in its payment the title and docket number of this action.

17. Concurrently with payment, Respondent must serve copies or other proof of payment pursuant to Paragraph 12 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Javier Morales
U.S. Environmental Protection Agency
Region 10
morales.javier@epa.gov

18. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty under the CAA. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

19. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall be responsible for payment of the following amounts:

- a. Interest. Any unpaid portion of the Assessed Penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.
- b. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Assessed Penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

20. The Assessed Penalty, including any additional costs incurred under Paragraph 15, represents an administrative civil penalty assessed by the EPA and shall not be deductible for purposes of federal taxes.

21. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this ESA and to bind Respondent to this document.

22. The undersigned representative of Respondent certifies that, as of the date of Respondent's signature of this ESA, Respondent has corrected the violation(s) alleged in Part III.

23. Except as described in Paragraph 15, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

24. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this ESA and to appeal the Final Order.

25. By signing this ESA, 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 the Final Order accompanying this ESA.

26. The provisions of this ESA and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

27. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this ESA, and to any stated permit action.

28. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT:

Shawn Cox, General Manager
Peshastin Hi-Up Growers

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

| | | |
|-------------------------|---|-----------------------------|
| In the Matter of: |) | DOCKET NO. CAA-10-2025-0134 |
| |) | |
| Peshastin Hi-Up Growers |) | FINAL ORDER |
| |) | |
| Peshastin, Washington |) | |
| |) | |
| Respondent. |) | |

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Expedited Settlement Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Expedited Settlement Agreement and this Final Order constitute a settlement by the EPA of all claims for civil penalties under CAA for the violations alleged in Part III of the Expedited Settlement Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of CAA and regulations promulgated or permits issued thereunder and any applicable implementation plan requirements.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Peshastin Hi-Up Growers, Docket No.: CAA-10-2025-0134**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

Javier Morales
RMP Program Coordinator
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 6th Avenue, Suite 155
Seattle, Washington 98101
morales.javier@epa.gov

Mr. Shawn Cox
General Manager
Peshastin Hi-Up Growers
P.O. Box 446
10225 Mill Road
Peshastin, WA 98847
shawn.cox@hiupgrowers.com

Regional Hearing Clerk
EPA Region 10