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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
Manor Chemical Company, Inc.	)	**Docket No. MM-07-2023-0088**
	)	
Respondent.	)	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Manor Chemical Company, Inc. (Respondent) have agreed to a settlement of this action before the 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 and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties initiated pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a).

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), Section 3005 of RCRA, 42 U.S.C. § 6925, and Missouri regulations authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, which incorporate by reference the standards applicable to generators of hazardous waste (40 C.F.R. Part 262). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Manor Chemical Company, Inc. a business corporation organized under the laws of the state of Missouri.

Statutory and Regulatory Background

CAA

5. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as the Occupational Safety and Health Act, 29 U.S.C. § 654 *et. seq.*, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. Section 112(r)(1) of the CAA is known as the "General Duty Clause."

6. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $55,808 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 6, 2023.

RCRA

7. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

8. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 3001, 3002, and 3005 of RCRA, 42 U.S.C. §§ 6912, 6922, and 6925, to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Parts 262 through 279.

9. Section 3001 of RCRA, 42 U.S.C. § 6921, requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

10. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste

identified or listed under this subchapter, as may be necessary to protect human health and the environment.

11. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

12. The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. The State of Missouri has adopted by reference the federal regulations cited herein at pertinent parts in the Missouri Code of State Regulations (C.S.R.) in Title 10, Division 25. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder.

13. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

14. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than $25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $117,468 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 6, 2023.

Definitions

CAA

15. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

16. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), defines “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

17. Section 112(a)(9) of the CAA, 42 U.S.C. § 7412, defines “owner or operator” as any person who owns, leases, operates, controls or supervises a stationary source.

18. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), defines "regulated substance" as a substance listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). These substances are codified in 40 C.F.R. § 68.130.

19. The term "extremely hazardous substance" means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability, or corrosivity.[1] The term includes, but is not limited to, regulated substances listed in Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and 40 C.F.R. § 68.130. Also, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion, or other reaction would create a presumption that such substance is extremely hazardous.[2]

20. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines "stationary source" as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person, and from which an accidental release may occur.

RCRA

21. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines "person" as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

22. The regulation at 40 C.F.R. § 260.10 defines "facility" to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

23. The regulation at 40 C.F.R. § 260.10 defines "storage" as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

24. "Solid waste" is defined at 40 C.F.R § 261.2.

25. "Hazardous waste" is defined at 40 C.F.R. § 261.3.

[1] Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101st Congress, 1st Session 211 (1989).

[2] *Id.*

26. The regulation at 40 C.F.R. § 260.10 defines "generator" as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

27. The regulation at 40 C.F.R. § 260.10 defines "small quantity generator" as a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.

General Factual Allegations

28. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

29. Respondent owns and operates a chemical manufacturing facility located at 6901 Heege Road, in St. Louis, Missouri (Facility).

30. The Facility is a "stationary source" as defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and a "facility" as defined by 40 C.F.R. § 260.10.

31. Respondent primarily manufactures two chemical products, paper adhesives and lacquer thinners, and operates lacquer thinner mixing and flammable liquid storage systems at the Facility. With regard to these storage systems, Respondent produces, processes, handles and/or stores bulk quantities of the following extremely hazardous substances: 100 solvent; 140 solvent; 150 solvent; acetone; butyl acetate; diesel; ethyl alcohol (ETOH); isopropyl alcohol (IPA); methyl, ethyl ketone (MEK); methanol; mineral spirits; toluol (toluene); varnish makers & painters petroleum naptha (VM&P); and xylol at the Facility.

32. The substances listed in Paragraph 31, above, have the following characteristics:

(a) 100 solvent: Vapors may cause respiratory irritation and may cause drowsiness or dizziness. Liquid may be fatal if swallowed or enters airways. It is a potential carcinogen and class II flammable liquid. Use water fog, foam, dry chemical or carbon dioxide to extinguish flames. The level that is immediately dangerous to life and health (IDLH) is 1,000 parts per million (ppm) and is based on that concentration being 10% of the Lower Explosive Limit (LEL).

(b) 140 solvent: Vapors cause mild irritation of respiratory tract. Aspiration causes severe lung irritation and rapidly developing pulmonary edema, as well as central nervous system excitement followed by depression. Ingestion causes irritation of the stomach. It is a potential carcinogen and a class IIIA flammable liquid. The use of water spray when fighting fire may be inefficient. The IDLH is 5,619 ppm.

(c) 150 solvent: Vapors may cause drowsiness or dizziness and damage to the central nervous system. Liquid causes skin irritation and serious eye irritation and may be fatal if swallowed or enters airways. It is a potential carcinogen

and 150 a class IIIA flammable liquid. Use of water spray when fighting fire may be inefficient.

(d) Acetone: Inhalation of acetone vapor is irritating to eyes and mucous membranes; acts as an anesthetic in very high concentrations. Ingestion of acetone exhibits a low order of toxicity but is very irritating to mucous membranes. Prolonged excessive contact with skin causes defatting of the skin, potentially leading to dermatitis. It is a class IB flammable liquid. Use of water spray when fighting fire may be inefficient; alcohol-resistant foam should be used. The IDLH is 2,500 ppm.

(e) Butyl Acetate: Prolonged skin exposure or frequently repeated exposures may lead to drying. Inhalation causes headaches, dizziness, nausea, irritation of respiratory passages and eyes. It is a class IC flammable liquid. Use of water spray when fighting fire may be inefficient. The IDLH is 1,700 ppm and is based on that concentration being 10% of the LEL.

(f) Diesel: Liquid is irritating to skin and eyes and harmful if swallowed. Diesel is a class II flammable liquid. Use of water spray when fighting fire may be inefficient.

(g) Ethyl Alcohol: Vapors are irritating to eyes, nose and throat. It is a class IB flammable liquid. Use of water spray when fighting fire may be inefficient and alcohol-resistant foam should be used. The IDLH for ethyl alcohol is 3,000 ppm and is based on that concentration being 10% of the LEL.

(h) Isopropyl Alcohol: Vapors cause mild irritation of eyes and upper respiratory tract; high concentrations may be anesthetic. Liquid irritates eyes and may cause injury; if ingested, causes drunkenness and vomiting. Reacts with air or oxygen to form dangerously unstable peroxides. It is a class IB flammable liquid. Use of water spray when fighting fire may be inefficient. The IDLH is 2,000 ppm.

(i) MEK: MEK liquid causes eye burn. Vapor irritates eyes, nose, and throat; can cause headache, dizziness, nausea, weakness, and loss of consciousness. It is a class IB flammable liquid. Use of water spray when fighting fire may be inefficient, alcohol-resistant foam should be used. The IDLH for MEK is 3,000 ppm.

(j) Methanol: Methanol is a chemical that may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, flammability, or volatility. Methanol is a class 1B flammable liquid that requires specialized fire suppression because it can burn with no visible flame and stays flammable even when mixed with large quantities of water. A 75% water, 25% methanol mixture remains a flammable liquid. Methanol is also toxic. A very small amount of pure methanol can cause severe injury; swallowing less than one fourth of a cup (10-30 ml) can kill an adult. The IDLH is 6,000 ppm.

(k) Mineral spirits: Vapors cause mild irritation of respiratory tract. Aspiration causes severe lung irritation and rapidly developing pulmonary edema, and central nervous system excitement followed by depression. Ingestion causes irritation of stomach. There is no information regarding carcinogenicity, but it contains 3-4% benzene which is carcinogenic. It is a class II flammable liquid and has a very low flash point. Use of water spray when fighting fire may be inefficient.

(l) Toluol or Toluene: Vapors irritate eyes and upper respiratory tract, and cause dizziness, headache, anesthesia, respiratory arrest. Liquid irritates eyes and causes drying of skin. If aspirated, causes coughing, gagging, distress, and rapidly developing pulmonary edema. If ingested, causes vomiting, griping, diarrhea, depressed respiration. It is a class 1B flammable liquid and requires specialized firefighting measures as the use of water spray when fighting fire may be inefficient. The IDLH is 500 ppm.

(m) VM&P: Inhalation of concentrated vapor may cause intoxication. There is no information regarding carcinogenicity, but it contains varying amounts of benzene which is carcinogenic. It is a class IB flammable liquid and requires specialized firefighting measures as the use of water spray when fighting fire may be inefficient.

(n) Xylol or Xylene: May cause toxic effects if inhaled or absorbed through skin. Inhalation or contact with material may irritate or burn skin and eyes. Fire will produce irritating, corrosive and/or toxic gases. Vapors may cause dizziness or suffocation. Runoff from fire control or dilution water may cause pollution. It is a class IB flammable liquid. The IDLH is 900 ppm.

33. Each of the substances listed in Paragraph 32 is an "extremely hazardous substance" within the meaning of the General Duty Clause under Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

34. Respondent is subject to the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), because it is the owner and operator of a stationary source that is producing, processing, handling or storing substances listed pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3), and/or extremely hazardous substances pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B).

35. On or about December 11, 2018, Respondent notified to EPA of its regulated waste activity as a Small Quantity Generator and obtained the following RCRA ID number: MOD066926767.

36. On April 29, 2021, a fire occurred in the Facility's mixing building, while Respondent was producing an adhesive product in a large mixer. The contents of the mixing vessel along with several other tanks of flammable liquids stored in and near the building were consumed by the fire. The materials involved included three (3) full fifty-five (55) gallon drums of ignitable hazardous waste adhesive. The intensity of the flames and large amount of smoke

and residue caused the local fire department to order road closures and evacuation of residences in this highly populated area. The evacuation applied to residences which were located within 0.5 miles of the Facility. The fire destroyed the Facility's mixing building and associated equipment.

37. The unanticipated emission from extremely hazardous substances into the air as a result of the fire at the Facility constitutes an "accidental release" as defined by Section 112(r)(2)(a) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

38. On June 8 through 9, 2021, EPA conducted an inspection at the Facility to determine Respondent's compliance with Section 112(r) of the CAA and RCRA.

39. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a small quantity generator of hazardous waste, a small quantity handler of universal waste lamps, and a used oil generator.

40. The hazardous wastes that Respondent generates include waste solvents (D001/F003/F005) and waste adhesives (D001/F003/F005).

Alleged Violations

41. Complainant hereby states and alleges that Respondent has violated the CAA, RCRA, and federal regulations promulgated thereunder as follows:

CAA

Count 1
Failure to Identify Hazards

42. The facts stated in Paragraphs 28 through 40 above are herein incorporated.

43. Section 112(r)(1) of the CAA requires owners and operators of stationary sources producing, processing, handling or storing substances listed in 40 C.F.R. Part 68 or any other extremely hazardous substance to identify hazards which may result from accidental releases using appropriate hazard techniques.

44. The EPA inspection revealed that Respondent did not identify hazards which may result from releases using appropriate hazard assessment techniques, including the failure to identify hazards associated with operations involving flammable liquids to ensure that fire and explosion hazards are addressed by fire prevention, fire control, and emergency action plans, as required by the standards in the National Fire Protection Association (NFPA) 30 (Flammable and Combustible Liquids Code).

45. Respondent's failure to identify hazards which may result from accidental releases using appropriate hazard assessment techniques is a violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

Count 2
Failure to Design and Maintain a Safe Facility

46. The facts stated in Paragraphs 28 through 40 above are herein incorporated.

47. Section 112(r)(1) of the CAA requires owners and operators of stationary sources producing, processing, handling or storing substances listed in 40 C.F.R. Part 68 or any other extremely hazardous substance to design and maintain a safe facility taking such steps as are necessary to prevent releases.

48. The EPA inspection revealed that Respondent did not design and maintain a safe facility free of ignition hazards while handling flammable substances, including the failure to adequately control ignition sources as required by the standards in NFPA 30, 70 (National Electric Code), and 77 (Recommended Practice on Static Electricity), and did not implement a mechanical integrity program for tanks, as required by the standards in NFPA 30 and American Petroleum Institute (API) Standard 653 (Tank Inspections, Repairs, Alteration, and Reconstructions), which require recurring in service inspections, external inspections, and internal inspections.

49. Respondent's failure to design and maintain a safe facility taking such steps as are necessary to prevent releases is a violation of 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

RCRA

Count 3
Failure to Conduct Hazardous Waste Determinations

50. The facts stated in Paragraphs 28 through 40 above are herein incorporated.

51. Pursuant to 10 CSR 25-5.262(1) [40 C.F.R. § 262.11], a generator of solid waste, as defined in 40 C.F.R. §§ 260.10 and 261.2, must determine if that waste is a hazardous waste using methods prescribed in the regulations.

52. At the time of the inspection, it was determined that Respondent was potentially generating at least twenty-two (22) solid waste streams at the Facility. These potential waste streams were located in the main dock, back dock, mixing room, well house, laboratory, garage, shed, main dock, and northeast side of the Facility.

53. At the time of the inspection, Respondent had not conducted hazardous waste determinations on any of the solid waste streams described in the immediately preceding paragraph.

54. Respondent's failures to perform hazardous waste determinations on the above-referenced solid waste streams are violations of 10 CSR 25-5.262(1) [40 C.F.R. § 262.11].

Count 4
Operating as a Treatment, Storage or Disposal Facility
Without a RCRA Permit or RCRA Interim Status

55. The facts stated in Paragraphs 28 through 40 above are herein incorporated.

56. Section 3005 of RCRA, 42 U.S.C. § 6925, Missouri Revised Statutes 260.390.1(1), and the regulations at 40 C.F.R. Part 270 require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

57. At the time of the inspection, Respondent did not have a RCRA permit or interim status.

58. The regulations at 10 CSR 25-5.262(1) [40 C.F.R. § 262.34(d)(5)(ii)] require, in part, that the generator post the following information next to the telephone: the name and telephone number of the emergency coordinator; location of fire extinguishers and spill control material, and, if present, fire alarm.

59. At the time of the inspection, Respondent had not posted by the telephone the location of emergency equipment and the updated emergency coordinator for the Facility.

60. The regulations at 10 CSR 25-5.262(1) [40 C.F.R. § 262.34(d)(4); 40 C.F.R. § 265.37(a)(1)] require the owner or operator to, as appropriate for the type of waste handled and potential need for services, attempt to make arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes.

61. At the time of the inspection, Respondent had not attempted to make arrangements with local response authorities for the hazardous waste at the Facility.

62. The regulations at 10 CSR 25.5.262(C)(1)A [40 C.F.R. § 262.34(c)(1)] allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.33(e) in containers at or near any point of generation where waste initially accumulates, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with § 262.34(a) provided the generator, among other things, mark each container with its beginning date of satellite accumulation and the words “Hazardous Waste” or other words that identify the contents of the container. This type of accumulation is known as “satellite accumulation”.

63. At the time of the inspection, EPA observed an unlabeled five (5) gallon pail that contained hazardous waste in a satellite accumulation area at the Facility.

64. Because Respondent failed to comply with the generator requirements set forth above, Respondent was not authorized to store hazardous waste at the Facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

65. The regulations at 10 CSR 25-5.262(1) [40 C.F.R. § 262.34(d)] state that a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided the generator complies with, *inter alia*, the requirements described above. Facilities classified as small quantity generators may accumulate hazardous waste at their facility without a permit no more than one-hundred and eighty (180) days.

66. At the time of the inspection, Respondent had been storing the following containers of hazardous waste for more than one-hundred and eighty (180) days: two fifty-five-gallon drums of baffle water that contained hazardous waste.

67. By storing hazardous waste on-site for greater than one-hundred and eighty (180) days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265, and the permit requirements of 40 C.F.R. Part 270.

68. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 56 through 67 above, Respondent was not authorized to accumulate hazardous waste at its facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 5
Failure to Comply with Universal Waste Management Requirements

69. The facts stated in Paragraphs 28 through 40 above are herein incorporated.

70. The regulations at 40 C.F.R. § 273.13(d)(1) require a small quantity handler of universal waste to manage lamps in a way that prevents releases by containing the lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

71. The regulations at 40 C.F.R. § 273.14(e) require small quantity handlers of universal waste to clearly label or mark each lamp or container or package in which such lamps are contained with one of the following phrases: “Universal Waste—Lamp(s)” or “Waste Lamp(s),” or “Used Lamp(s).”

72. The regulations at 40 C.F.R. § 273.15(c)(1) require small quantity handlers of universal waste to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

73. The regulations at 40 C.F.R. §§ 273.15(a) and (b) state that a small quantity handler of universal waste may accumulate universal waste for no longer than one (1) year from the date the universal waste is generated, or received from another handler, unless such accumulation is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

74. At the time of the inspection, EPA documented three (3) eight (8) foot waste lamps stacked against a wall at the Facility. The waste lamps were not labeled, dated, or contained to prevent releases and breakage.

75. The EPA inspection revealed that Respondent placed the three (3) waste lamps against the wall at the Facility in 2017.

76. Respondent's accumulation of the three (3) universal waste lamps described above for longer than one year, as well as failures to label, date, and contain the waste lamps to prevent breakage, are violations of 40 C.F.R. §§ 273.15(a) and (b), 273.14(e), 273.15(c)(1), 273.13(d)(1), respectively, and Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 6
Failure to Comply with Used Oil Regulations

77. The facts stated in Paragraphs 28 through 40 above are herein incorporated.

78. The regulations at 40 C.F.R. § 279.22(c)(1) require used oil generators to label or clearly mark containers and above ground tanks used to store used oil at generator facilities with the words "Used Oil."

79. At the time of the inspection, Respondent failed to label or clearly mark the following used oil containers: four (4) five (5) gallon containers of used oil, two of which were labeled "waste oil" and two of which had no label.

80. The regulations at 40 C.F.R. § 279.22(d) required used oil generators, upon detection of a release of used oil to the environment, to stop the release, contain the released used oil, clean up and manage properly the released used oil and other materials, and if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

81. At the time of the inspection, EPA observed a release of used oil under a vehicle in the car port at Respondent's Facility.

82. Respondent's failures to properly label the containers of used oil described above and contain the released used oil and clean up and manage properly the released oil as described above, are violations of 40 C.F.R. §§ 279.22(c)(1) and (d), respectively, and Section 3005 of RCRA, 42 U.S.C. § 6925.

CONSENT AGREEMENT

83. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

(a) admits the jurisdictional allegations set forth herein;

(b) neither admits nor denies the specific factual allegations stated herein;

(c) consents to the assessment of a civil penalty, as stated herein;

(d) consents to the issuance of any specified compliance or corrective action order;

(e) consents to any conditions specified herein;

(f) consents to any stated Permit Action;

(g) waives any right to contest the allegations set forth herein; and

(h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

84. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

85. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

86. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: *barton.kasey@epa.gov* (for Complainant) and *schamberlain@thompsoncoburn.com* (for Respondent). Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

Penalty Payment

87. EPA has considered the appropriateness of the penalty pursuant to Sections 113(e)(1) of the CAA and 3008(a)(3) of RCRA, 42 U.S.C. §§ 7413(e)(1) and 6928(a)(3), and has determined that, based on substantiated ability to pay information, the appropriate penalty for the violations is $40,681 to be paid in monthly installments with interest. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a mitigated civil penalty of $40,681, plus interest of $186.44 over a period of twelve (12) months for a total payment of $40,867.44 [penalty + interest]. The total payment shall be paid in monthly payments of $3,405.62. The first payment must be received at the address below within thirty (30) days of the effective date of the Final Order. Each subsequent payment shall be paid within thirty (30) days of the previous payment. Each penalty payment shall identify Respondent by name and docket

number and shall be 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
PO Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at *http://www.epa.gov/financial/makepayment*.

88. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Kasey Barton, Attorney
barton.kasey@epa.gov.

89. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

90. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA and/or RCRA or any other applicable law.

91. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in the paragraph directly below.

92. Respondent certifies by the signing of this Consent Agreement that based on information and belief formed after reasonably inquiry it is presently in compliance with all requirements of Section 112(r)(1) of the CAA and Section 3005 of RCRA and the Missouri authorized hazardous waste regulations at 10 CSR 25-5.262(1).

93. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and RCRA and regulations promulgated thereunder.

94. This Consent Agreement and Final Order constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Combined Enforcement Response Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

95. This Consent Agreement and Final Order constitutes a "previous violation" as that term is used in EPA's *RCRA Civil Penalty Policy* to determine Respondent's "history of noncompliance."

96. Complainant reserves the right enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

97. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

98. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

99. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

100. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

RESPONDENT:
MANOR CHEMICAL COMPANY, INC.

George A. Manor
Signature

4-26-23
Date

George Manor
Printed Name

President
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

DAVID COZAD Digitally signed by DAVID COZAD Date: 2023.04.27 21:27:02 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

KASEY BARTON Digitally signed by KASEY BARTON Date: 2023.04.28 08:08:03 -05'00'

Kasey Barton
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to Sections 113(d) of the CAA and 3008(a) of RCRA, 42 U.S.C. §§ 7413(d) and 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

KARINA BORROMEO

Digitally signed by KARINA BORROMEO
Date: 2023.05.01 09:30:57 -05'00'

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
(for EPA use only)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Manor Chemical Company, Inc., EPA Docket No. CAA-07-2022-0053, was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Kasey Barton, Attorney
barton.kasey@epa.gov

Copy via E-mail to Respondent:

Sara Chamberlain, Attorney
Thompson Coburn LLP
One US Bank Plaza
St. Louis, MO 63101
schamberlain@thompsoncoburn.com

Copy via E-mail to the State of Missouri:

Chris Nagel, Director
Waste Management Program
Missouri Department of Natural Resources
Christopher.Nagel@dnr.mo.gov

Michael Parris, Compliance/Enforcement Chief
Waste Management Program
Missouri Department of Natural Resources
Michael.Parris@dnr.mo.gov

Brandon Backus
Environmental Program Supervisor, Compliance and Enforcement Section
Waste Management Program
Missouri Department of Natural Resources
Brandon.Backus@dnr.mo.gov

Dated this _____ day of _____, _____.

AMY GONZALES Digitally signed by AMY GONZALES
Date: 2023.05.03 09:03:41 -05'00'

Signed