



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

March 6, 2018

HAND DELIVERY

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: **In the Matter of Eagle Natrium LLC**
U.S. EPA Docket No. CAA-03-2018-0077DA

Dear Regional Hearing Clerk:

Enclosed please find the original and one copy of an Administrative Settlement Agreement and Order on Consent, along with a certificate of service.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosures

cc: Kathy Beckett, Esq.
Kevin Daniel (3HS61)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

March 6, 2018

Via Overnight Mail

Kathy Beckett, Esquire
Steptoe & Johnson PLLC
Chase Tower, 17th Floor
707 Virginia Street East
Charleston, WV 25301

Re: **In the Matter of Eagle Natrium, LLC**
U.S. EPA Docket No. CAA-03-2018-0077DA

Dear Ms. Beckett:

Enclosed please find a copy of the Administrative Settlement Agreement and Order on Consent, which has been filed with the Regional Hearing Clerk today.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosure

cc: Kevin Daniel (3HS61)



2. All terms and conditions of this Order, including any modifications hereto, are required by this Order. The Respondent agrees to undertake all actions required by the terms and conditions of this Order and to comply with all such terms and conditions.

3. The Respondent consents to and will not contest EPA's authority or jurisdiction to issue or to enforce this Order.

4. This Order requires Respondent to comply with the requirements of Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7412(r)(1) and (7), and the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68, as specifically set forth herein, by ensuring that the facility listed in the caption herein complies with regulatory requirements and designs and maintains a safe facility to prevent accidental releases of hazardous chemicals.

II. STATUTORY AND REGULATORY BACKGROUND

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The CAA Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3).

6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), also known as the "General Duty Clause," the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 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 29 U.S.C. § 654, 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.

7. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances. The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.

8. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 (the "Risk Management Program Regulations" or "RMP Regulations"), which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The RMP Regulations require owners and operators of stationary sources to develop and

implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

9. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its RMP Regulations at 40 C.F.R. § 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

III. DEFINITIONS

10. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as, *inter alia*, 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 (or persons under common control) and from which an accidental release may occur.

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as including an 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.

12. The General Duty Clause applies to any stationary source producing, processing, handling, or storing regulated substances, as defined above, or other extremely hazardous substances (“EHS”). An EHS is any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to their toxicity, reactivity, flammability, volatility or corrosivity. EHSs include regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 *et seq.*, at 40 C.F.R. Part 355, and may include the Facility’s proprietary chemicals as well.

13. The RMP Regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

14. The RMP Regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.

15. The RMP Regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

16. As used herein, the term “day” shall mean calendar day.

17. All terms not defined herein shall have the meanings set forth in the CAA.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. Respondent is a limited liability company organized in the State of Delaware, with its principal place of business located at 2801 Post Oak Blvd., Houston, Texas 77056.

19. Respondent has owned and operated a chemical manufacturing facility located at 15696 Energy Road, West Virginia State Route 2 in Proctor, West Virginia (the “Facility”) since at least January 2013.

20. The Facility manufactures chlorine, sodium hydroxide, solid sodium hydroxide, hydrochloric acid and calcium hypochlorite. The Facility is primarily a manufacturer of chlorine, which is produced through the electrolysis of a sodium chloride being derived from a salt vein deep under the Facility. Brine is pumped to the surface, treated, and transferred to one of three electrolysis production units. Chlorine gas is produced, dried, liquefied, and compressed. Hydrogen is produced as part of the electrolysis and is used as a fuel or in the hydrochloric acid unit.

21. On January 24, 2017, EPA conducted an inspection of the Facility to determine whether Respondent was in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the RMP Regulations (the “Inspection”).

22. Based on the observations of EPA inspectors during the Inspection, EPA has determined that Respondent has the potential to store as much as 27,000,000 pounds of the toxic chemical chlorine in the form of liquefied chlorine gas at the Facility in pressurized storage vessels, ranging in capacity from 180,000 pounds to 700,000 pounds.

23. Chlorine, Chemical Abstract Service (“CAS”) No. 7782-50-5, is a regulated substance listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), in the list of regulated substances compiled at 40 C.F.R. § 68.130.

24. Based on the observations of EPA inspectors during the Inspection, EPA has also determined that the Facility produces hydrogen gas during the electrolysis process. Respondent uses as much as 88 pounds of hydrogen gas at any one time.

25. Hydrogen, CAS No. 1333-74-0, is an extremely hazardous flammable gas, which is also listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, Table 3, and thus is a regulated substance in accordance with CAA Section 112(r)(2), 42 U.S.C. § 7412(r)(2).

26. As a corporation, 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 the owner and operator of the Facility.

27. Respondent is, and at all times referred to herein was, the owner and operator of a “stationary source,” as the term is defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

28. The threshold quantity for chlorine is 2,500 pounds, pursuant to 40 C.F.R. § 68.130, Table 1.

29. EPA has determined that more than a threshold quantity of a regulated substance, chlorine, is present in a process at the Facility.

30. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 C.F.R. § 7412(r)(7), and the RMP Regulations, 40 C.F.R. Part 68, at the Facility because Respondent is an owner or operator of a stationary source with more than a threshold quantity of a regulated substance, chlorine, present in a process at the Facility.

31. Due to its use and storage of hydrogen gas, an extremely hazardous substance under Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), Respondent is the owner and operator of a stationary source subject to the General Duty Clause and its requirements.

Risk Management Program

32. EPA’s Inspection revealed the following instances in which Respondent has not complied with Section 112(r)(7) of the CAA, and the RMP Regulations.

Mechanical Integrity

33. Section 68.73(d)(2) of the RMP Regulations requires owners and operators of stationary sources to ensure that inspections and tests are performed on process equipment, including piping systems, and that the inspections and tests follow recognized and generally accepted good engineering practices. 40 C.F.R. § 68.73(d)(2).

34. Section 68.73(e) of the RMP Regulations requires owners and operators of stationary sources to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation. 40 C.F.R. § 68.73(e).

35. Respondent's February 2016 chlorine piping inspection report indicated "piping and elbows corroded, insulation damaged/unacceptable, sheathing missing/unacceptable, fasteners missing/unacceptable." During the January 2017 Inspection, EPA inspectors observed some of the same conditions documented in Respondent's February 2016 report. EPA inspectors observed chlorine piping leading to the chlorine railcar loading shed at the Facility, including the Nos. 8, 10 and 11 Track Chlorine Lines. EPA inspectors observed that the piping was not supported properly, was sagging, and was resting on steel angle supports; areas of piping were missing insulation and exhibited frost and rust; frost was visible on the insulation itself, which is a possible indication of vapor barrier failure and/or corrosion under the insulation; and elbows were covered with painter's tape.

36. The term "recognized and generally accepted good engineering practices" means practices as set forth in standards such as:

- Chlorine Institute, Pamphlet 6, *Piping Systems for Dry Chlorine*, 16th ed. (March 2013) ("CI Pamphlet 6");
- Manufacturers Standardization Society of the Valve and Fittings Industry, Inc., Standard Practice 58, *Pipe Hangers and Supports – Materials, Design, Manufacture, Selection, Application and Installation* (2009) ("MSS SP-58-2009");
- American Society of Mechanical Engineers, *Code for Pressure Piping, B31* (2008) ("ASME B31.3-2008"); and
- American Petroleum Institute 570, *Piping Inspection Code: In-service Inspection, Rating, Repair and Alteration of Piping Systems*, 3d ed. (Nov, 2009) ("API 570").

37. Section 10 of CI Pamphlet 6 sets the safety standards applicable to the condition of chlorine piping as follows:

- Piping should be adequately supported to prevent sagging and resting on structural steel. ... Piping should be supported with hangers or pipe shoes that do not allow metal to metal wear or corrosion. CI Pamphlet 6, § 10.2
- Insulation must provide a sufficient moisture barrier to prevent corrosion under the insulation. CI Pamphlet 6, § 10.8

38. The scope of MSS SP-58-2009 includes the recommended practice for the “selection and application of pipe hangers and supports for all service temperatures” and for the “detailing, fabrication and installation of pipe hangers and supports.” MSS SP-58-2009, § 1.4, 1.5. Section 5 addresses piping systems and includes the required support spacing for each type of piping system and insulation, to prevent sagging. *See* MSS SP-58-2009, at § 5, Tables A3 and 4.

39. Industry code ASME B.31.3-2008 sets forth engineering requirements deemed necessary for the safe design and construction of piping installations. ASME B31.3, Chapter 1, 300(c)(1). The “layout and design of piping and its supporting elements shall be directed toward preventing ... excessive stresses in the supporting (or restraining) elements” ASME B31.3-2008, § 321.1.1.

40. Section 5.5.4 of API 570 provides that external inspection are performed “to determine the condition of the outside of the piping, insulation system, painting and coating systems, and associated hardware; and to check for signs of misalignment, vibration, and leakage.” Further, external inspections shall include surveys for the conditions of piping hangars and supports, including “improper restraint conditions.” *Id.* In addition, API 570 provides that “piping shall be supported and guided so that: a) its weight is carried safely, b) it has sufficient flexibility for thermal expansion or contraction, and c) it does not vibrate excessively.” API 570, § 7.5.

41. The condition of the chlorine piping at the Facility during the January 2017 Inspection, with its sagging pipes, pipes resting on steel supports, corroded elbows, damaged insulation, missing protective shields, and missing fasteners, is contrary to acceptable limits, as defined in CI Pamphlet 6, MSS SP-58-2009, ASME B31.3-2008, and API 570.

42. According to information provided by Respondent to EPA since the EPA Inspection, Respondent identified four action items regarding piping corrosion during its February 2016 piping inspection, had addressed some of the items by the time of EPA’s January 2017 Inspection, and has addressed the remaining action items. Respondent intends to address corrosion issues Facility-wide through scheduled inspections according to an action plan to be developed, consistent with CI Pamphlet 6, MSS SP-58-2009, ASME B31.3-2008, and API 570.

43. According to information provided by Respondent, Respondent has developed an action plan to repair the chlorine piping that is sagging and resting on steel angle supports. As part of this action plan, Respondent intends to review engineering standards and revise piping inspection forms as needed to comply with CI Pamphlet 6 regarding piping supports; train inspectors on requirements; complete a Facility-wide assessment of the chlorine piping for sagging and support issues; and prepare a schedule to repair deficiencies.

Process Safety – Labeling of Chlorine Piping

44. Under the RMP Regulations, owners or operators of stationary sources must compile and maintain up-to-date safety information related to the regulated substances, processes, and equipment, including codes and standards used to design, build, and operate the process. See 40 C.F.R. § 68.48(a). Further, owners or operators must ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. See 40 C.F.R. § 68.48(b).

45. The two relevant “recognized and generally accepted good engineering practices” that should be consulted for the purpose of designing a program to meet the requirements of 40 C.F.R. § 68.48(b) for labeling of piping include the following:

- American Society of Mechanical Engineers A13.1-2007, *Scheme for the Identification of Piping Systems* (“ASME A13.1”); and
- National Fire Protection Association 55, *Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks* (2005 ed.) (“NFPA 55”).

46. Industry standard ASME A13.1-2007 provides that pipes containing hazardous materials must have legends:

This Standard considers a legend to be primary and explicit for identification of contents. Positive identification of the contents of a piping system shall be by lettered legend, giving the name of the contents in full or abbreviated form (see Table 1). Arrows shall be used to indicate direction of flow. Where flow can be in both directions, arrows in both directions shall be displaced. Contents shall be identified by a legend with sufficient additional details such as temperature, pressure, etc. as are necessary to identify the hazard. ... Legends shall be applied closer to valves or flanges and adjacent to changes in direction, branches, and where pipes pass through walls or floors; and at intervals on straight pipe runs sufficient for identification. Identification may be accomplished by stenciling, the use of tape or markers. In any situation, the number and location of identification markers shall be based on the particular piping system.

ASME A13.1, § 3.1.

47. The other industry standard, NFPA 55, in the section dealing with compressed gases in piping systems, cross-references ASME 13.1-2007, providing that, except for piping with gas manufacturing plants, gas processing plants, refineries, and similar occupancies, “piping

systems shall be marked in accordance with ASME 13.1-2007.” Section 7.1.3.4 of NFPA 55 further provides:

- (1) Markings shall include the name of the gas and a direction-of-flow arrow.
- (2) Piping that is used to convey more than one gas at various times shall be marked to provide clear identification and warning of the hazard.
- (3) Markings for piping systems shall be provided at the following locations:
 - (a) At each critical process control valve
 - (b) At wall, floor, or ceiling penetrations
 - (c) At each change in direction
 - (d) At a minimum of every 20 ft (6.1 m) or fraction thereof throughout the piping run.

48. During the Inspection, EPA inspectors observed that the chlorine piping was not marked with any legends.

49. According to information provided by Respondent, Respondent intends to develop written procedures to establish a common system for the identification and labeling of hazardous materials conveyed in plant piping systems, and to complete labeling of chlorine piping Facility-wide according to the established company procedure in accordance with ASME A13.1 and NFPA 55.

General Duty Clause

50. EPA’s Inspection revealed the following instance in which Respondent has not complied with the obligation under Section 112(r)(1) of the CAA to design and maintain a safe facility taking such steps as are necessary to prevent accidental releases.

Labeling of Hydrogen Piping

51. As the owner and operator of a stationary source, with respect to the use and storage of hydrogen gas, Respondent has a duty under the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), to design and maintain a safe facility to prevent the accidental release of this hazardous chemical to the air.

52. The relevant industry standard is National Fire Protection Association 2, Hydrogen Technologies Code, 2016 edition (“NFPA 2”). Chapter 7 of NFPA 2 contains a cross-reference to ASME A13.1 and the same exception for gas processing plants, *et al.*, in the subsection dealing with piping systems, and states:

- (1) Markings shall include the name of the gas and a direction-of-flow arrow.
- (2) Piping that is used to convey more than one gas at various times shall be marked to provide clear identification and warning of the hazard.
- (3) Markings for piping systems shall be provided at the following locations:
 - (a) At each critical process control valve
 - (b) At wall, floor, or ceiling penetrations
 - (c) At each change in direction
 - (d) At a minimum of every 20 ft (6.1 m) or fraction thereof throughout the piping run.

NFPA 2, § 7.1.6.6.

53. During the CAA Inspection, EPA inspectors observed that the hydrogen piping was not marked with any legends, which is not compatible with industry codes and standards.

54. According to information provided by Respondent, Respondent intends on completing its labeling of hydrogen piping Facility-wide under an action plan, consistent with NFPA 2.

V. FINDINGS OF VIOLATION

55. Respondent's failure to ensure the integrity of its chlorine piping by timely addressing unacceptable piping conditions to correct deficiencies that are outside acceptable limits is a violation of the mechanical integrity provisions of the RMP Regulations, 40 C.F.R. § 68.73(e).

56. Respondent's failure to label the chlorine piping as set forth in recognized and generally accepted good engineering practices is a violation of the process safety requirements in the RMP Regulations, 40 C.F.R. § 68.65(d)(2).

57. Respondent violated the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), to design and maintain a safe facility to prevent accidental releases of hazardous substances by failing to label the hydrogen piping at the Facility to provide the level of protection identified in industry standards.

VI. ORDER

58. EPA hereby issues this Order to Respondent under the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), to address violations alleged in Section IV, Findings of Fact and Conclusions of Law, and Section V, Findings of Violation. EPA and Respondent agree that neither this Order, including Findings of Fact and Conclusions of Law and Finding of Violation in Sections IV and V, respectively, nor the actions undertaken by Respondent hereunder shall constitute or be construed as an admission of liability by Respondent for any purpose. Respondent agrees to undertake the actions specified below.

59. Respondent shall comply with the following requirements (the “Work”):

- a. Within thirty (30) days of the effective date of this Order, identify a person, subject to acceptance by EPA, competent to undertake the Work specified herein;
- b. Within forty-five (45) days of receipt of EPA’s written acceptance of the person competent to undertake the Work, Respondent shall submit to EPA for approval a work plan and schedule (“Work Plan and Schedule”) for the implementation of improvements to the Facility to address the conditions described in Paragraphs 33 through 54, above. The Work shall be consistent with the safety protection provided by the industry standards CI Pamphlet 6, ASME B.31.3-2008, MSS SP-58-2009, API 570, ASME A13.1-2007, NFPA 55, and NFPA 2.
- c. EPA will review the Work Plan and Schedule and either approve it in writing or request in writing that Respondent make changes and resubmit to EPA for approval the Work Plan and Schedule within thirty (30) days of EPA’s written request to do so.
- d. Within thirty (30) days of receipt of EPA’s final written approval of the Work Plan and Schedule submitted pursuant to Subparagraph 59.b above, or resubmitted pursuant to Subparagraph 59.c above, Respondent shall proceed to initiate and thereafter implement the EPA-approved Work Plan in accordance with the EPA-approved Schedule.
- e. Within thirty (30) days after completing the Work at the Facility in accordance with the EPA-approved Work Plan and Schedule, Respondent shall submit to EPA, for EPA’s approval, a final report which verifies that Respondent has complied with the requirements of Subparagraph 59.d (the “Final Report”).

- f. EPA will review the Final Report submitted pursuant to Subparagraph 59.e., above, and will either approve it in writing or identify deficiencies in writing (“Notice of Work Deficiencies”) and direct Respondent to correct and/or re-perform any Work disapproved by EPA and resubmit the Final Report, for EPA approval, within thirty (30) days of receiving the Notice of Work Deficiencies.

60. Unless otherwise required by the terms of this Order, any notice, report, plan, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning the Respondent’s compliance or non-compliance with any requirement(s) of this Order shall be signed by a responsible official of the Respondent and include the following certification:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

The term “responsible official” means: (i) the president, secretary or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partners or the proprietor, respectively.

61. Respondent shall provide EPA and its representatives, including contractors, with access to the Facility for the purpose of assessing Respondent’s compliance with this Order and with the CAA. Respondent shall also provide EPA and its representatives, including contractors, with access to all records relating to Respondent’s implementation of this Order. Nothing herein limits EPA’s information-gathering or access authority under the CAA.

62. Respondent shall preserve all non-identical documents and information relating to the activities carried out pursuant to this Order for five (5) years after completion of the Work required by this Order. At the end of the 5-year period, Respondent shall notify EPA at least thirty (30) days before any such document or information is destroyed that such documents and information are available for inspection. Upon request, Respondent shall provide EPA with the originals or copies of such documents and information.

63. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law.

VII. PARTIES BOUND

64. This Order shall apply to and be binding upon Respondent, its agents, successors, and assigns and upon all persons, contractors and consultants acting under or for the Respondent, or persons acting in concert with Respondent who have actual knowledge of this Order or any combination thereof with respect to matter addressed in this Order. No change in ownership or corporate or partnership status of Respondent will in any way alter the status of the Respondent or its responsibilities under this Order.

65. No change in ownership of the Facility shall in any way affect Respondent's obligations and responsibilities under this Order.

66. In the event of any change in operation or control of the Facility, before termination of this Order pursuant to Paragraph 83, below, Respondent shall notify EPA in writing at least thirty (30) days in advance of such change and shall provide a copy of this Order to the transferee-in-interest of such Facility prior to any agreement for transfer.

VIII. WRITTEN NOTICES

67. Information required to be submitted to Respondent under this Order must be sent to:

Jerry Mullens
Plant Manager – Natrium
Westlake Chemical Corporation
Post Office Box 191
New Martinsville, WV 26155
(304) 455-6874
Email: jerry.mullens@westlake.com

A copy shall be sent to: Rebecca H. Moring, Esq.
Senior Counsel Environmental
Westlake Chemical Corporation
2801 Post Oak Boulevard
Houston, Texas 77056
(713) 585-7941
Email: rmoring@westlake.com

68. Information required to be submitted to EPA under this Order must be sent to:

Kevin Daniel, Risk Management Program Coordinator
Oil and Prevention Branch (3HS61)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
(215) 814-3247
Email: daniel.kevin@epa.gov

A copy shall be sent to:

Cynthia T. Weiss, Esq.
Office of Regional Counsel (3RC42)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
(215) 814-2659
Email: weiss.cynthia@epa.gov

IX. EFFECT OF ORDER

69. The compliance measures ordered herein in Paragraph 59, above, address the violations alleged in Section IV, Findings of Fact and Conclusions of Law, and Section V, Finding of Violation. As set forth in Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), nothing in this Order shall prevent EPA from assessing any penalties, or otherwise affect or limit the United States' authority to enforce other provisions of the CAA, or affect any person's obligations to comply with any Section of the CAA, or with any regulation, term or condition of any permit, or applicable implementation plan promulgated, issued or approved under the CAA. Further, nothing in this Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against the Respondent or any third parties with regard to the Facility pursuant to any federal or state law, regulation or permit condition. Nothing in this Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against the Respondent for Respondent's failure to comply with any of the requirements of this Order.

X. ENFORCEMENT

70. Failure to comply with this Order may result in a civil judicial or administrative action seeking an injunction and/or civil penalties of up to \$46,192 per day of violation, pursuant to Section 113(b) and (d) of the CAA, 42 U.S.C. § 7413(b) and (d), as amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, 28 U.S.C. § 2461 note; Pub. L.

114-74, Section 701. EPA retains full authority to enforce the requirements of the CAA, 42 U.S.C. §§ 7401-7642, and nothing in this Order shall be construed to limit this authority.

71. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of the Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

72. This Order shall not relieve Respondent of its obligation to comply with all applicable federal, state, and local laws, regulations and other legal requirements, including but not limited to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

73. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of a regulated substance, extremely hazardous substance, or other hazardous substance on, at, or from the Facility. This Order shall not constitute or be construed as a release of any liability that the Respondent or any other person may have under the CAA, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, or any other law.

74. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

XI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

75. Respondent has conferred with EPA concerning the alleged violations set forth herein by negotiating this Order. This Order shall be effective upon receipt by the Respondent of a fully executed copy of the Order.

76. Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon approval by EPA, incorporated into this Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order.

77. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules, or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligation to

obtain formal approval when required by this Order, and to comply with the requirements of this Order unless formally modified.

78. This Order may be modified or amended in a writing executed by the Director of the Hazardous Site Cleanup Division and the Respondent. Such modifications or amendments shall be effective on the date they are fully executed by the Respondent and the Director of the Hazardous Site Cleanup Division or such other date as set by the Director of the Hazardous Site Cleanup Division. Minor modifications to the Order, the Work Plan and/or Schedule may be approved by EPA's assigned Risk Management Program Coordinator.

XII. FAILURE TO PERFORM

79. In the event of an inability or anticipated inability on the part of the Respondent to perform any of the actions required by this Order in the time and manner required herein, the Respondent shall notify EPA orally within twenty-four (24) hours of such failure or inability (or, if the failure occurs on a Friday or Saturday, Sunday, or legal holiday, no later than the following business day) and in writing as soon as possible, but in no event more than three (3) days after such action was due. Such notice shall set forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondent to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve Respondent of any obligation of this Order. Respondent shall take all reasonable actions to prevent and minimize any delay.

80. Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law. Respondent reserves all rights, claims and defenses to respond to any enforcement by EPA pursuant to this paragraph or under any authority, except that Respondent shall not contest EPA's authority to enforce this Order, as set forth in Paragraphs 3 and 76 above.

81. Nothing in this Section XII or any other provision of this Order shall be construed so as to limit any powers EPA may have under the CAA or any other law or regulation, nor shall this Order be construed so as to limit any defenses that Respondent may have under the CAA or otherwise.

XIII. SEVERABILITY

82. If any provision or authority of this Order, or the application of this Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in full force and not be effected thereby.

XIV. TERMINATION AND SATISFACTION

83. When EPA determines, after EPA's review and approval of the Final Report required pursuant to Paragraph 59.e of this Order, that all Work specified in Section VI of this Order has been fully performed, with the exception of any continuing obligations required by this Order, EPA will provide a notice of termination to the Respondent.

84. Termination of this Order shall not terminate Respondent's obligation to comply with any continuing obligations of any federal, state or local law, statute, ordinance, rule or regulation, and all continuing obligations shall continue as they did before the termination of the Order.

XV. COPIES OF ORDER

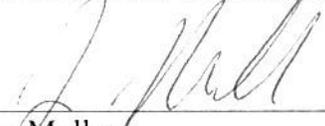
85. A copy of this Order will be provided to:

Mr. Jimmy Gianato, Director
West Virginia Division of Homeland Security and Emergency Management
1900 Kanawha Boulevard, East
Building 1, Room EB-80
Charleston, West Virginia 25305-0360

Eagle Natrium, LLC

Docket No. CAA-03-2018-0077DA

FOR EAGLE NATRIUM, LLC



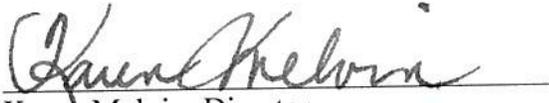
Jerry Mullens
Plant Manager

2/23/18
Date

Eagle Natrium, LLC

Docket No. CAA-03-2018-0077DA

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Date: MAR 5 2018

Karen Melvin, Director
Hazardous Site Cleanup Division
Environmental Protection Agency, Region III

