

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FILED

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK

DOCKET NO: CAA (112r)-09-2011-0015

This ESA is issued to: **Marchem Technologies LLC**
20851 S. Santa Fe Ave.
Long Beach, CA 90810

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

At: Marchem Technologies LLC - 20851 S. Santa Fe Ave. Long Beach, CA 90810

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Jane Diamond, Superfund Director, and Marchem Technologies LLC ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

- 1) Failed to identify and analyze at least one alternative release scenario to represent all flammable processes, as required by Section 112(r)(7) of the Clean Air Act (the Act) and 40 C.F.R. § 68.28(a);
- 2) Failed to develop and implement written operating procedures that provide clear instructions or steps for safely conducting activities involved in each covered process consistent with the process safety information as required by Section 112(r)(7) of the Act and 40 CFR §§ 68.69(a)(1)(iii) and 68.69(a)(1)(v);
- 3) Failed to initiate incident investigations as soon as possible but no later than 48 hours following each incident, as required by Section 112(r)(7) of the Act and 40 CFR §68.81(b);
- 4) Failed to develop a written plan of action regarding the implementation of the required employee participation requirements, as required by Section 112(r)(7) of the Act and 40 CFR §68.83(a).

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$5,100.00**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, 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 attorney's fees and costs, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed above and have sent an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) or **alternatively send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$5,100.00** in payment of the full penalty amount to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The check or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the Cincinnati Finance Center.

This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Karen Henry/Sheila Suarez (SFD-9-3)
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT – Marchem Technologies LLC

Signature: _____

Date: 7/8/2011

Name (print): Neil W. Markham

Title (print): President

FOR COMPLAINANT:


Jane Diamond
Superfund Director
U.S. EPA Region IX

Date: 8-10-11

It is hereby ORDERED that this ESA be entered and Respondent pays the above penalty.


Steven L. Jawgiel
Chief Judicial Officer
U.S. EPA Region IX

Date: 08/11/11

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement (**Docket #: CAA(112r)-09-2011-0015**) against **Marchem Technologies LLC**, was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

Neil Marchem
President
Marchem Technologies LLC
20851 S. Santa Fe Avenue
Long Beach, CA 90810

CERTIFIED MAIL NUMBER: 7008-1830-0002-6279-8784

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Michael Hingerty, Esq
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

8/16/11
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

CERTIFIED MAIL NO.: 7008 1830 0002 6279 8784
Return Receipt Requested

AUG 16 2011

Neil Marchem, President
Marchem Technologies LLC
20851 S. Santa Fe Ave
Long Beach, CA, 90810

Re: Marchem Technologies LLC, Long Beach, CA, 90810
RMP Facility ID#s: 100000102391

Dear Marchem:

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act Section 112(r)(7) by Marchem Technologies LLC, located at 20851 S. Santa Fe Ave, Long Beach, CA, 90810.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the Clean Air Act Section 112(r)(7) requirements, please feel free to contact Karen Henry of my staff at 415-972-3844.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Diamond".

Jane Diamond
Director, Superfund Division

Enclosures