



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 7

901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

**EXPEDITED SETTLEMENT  
AGREEMENT (ESA)**

07 SEP 12 AM 9:49

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**DOCKET NO:** CAA-07-2007-0037

**This ESA is issued to:** City of Wellington Water Treatment Plant

**At:** 317 S. Washington, Wellington, Kansas 67152

**for violating Section 112(r)(7) of the Clean Air Act.**

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The United States Environmental Protection Agency, Region 7 (EPA) and the City of Wellington Water Treatment Plant, 317 S. Washington, Wellington, Kansas 67152 (Respondent), have agreed to a settlement of this action before 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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, RCRA and Toxics Division. The Respondent is the City of Wellington Water Treatment Plant, 317 S. Washington, Wellington, Kansas.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

**ALLEGED VIOLATIONS**

On July 27, 2006, an authorized representative of the EPA conducted a compliance inspection of the Respondent's Water Treatment Plant located at 50<sup>th</sup> Street South and Lake Road, Wellington, Kansas, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (RMP Findings), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations, described in the enclosed RMP Findings, for the total penalty amount of **\$560.00**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in herein and in the RMP Findings, 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 Clean Air Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$560.00** in payment of the full penalty amount to the following address:

United States Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251.

The Docket Number of this ESA is CAA-07-2007-0037, and must be included on the check.

This original ESA, a copy of the completed RMP Findings, and a copy of the check must be sent by certified mail to:

Deanna Smith  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the RMP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

  
\_\_\_\_\_

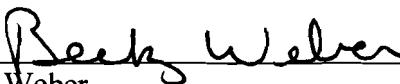
Date: August 24, 2007

Name (print): Larry S. Mangan, P.E.

Title (print): City Engineer

City of Wellington Water Treatment Plant

FOR COMPLAINANT:

  
\_\_\_\_\_

Date: 9/11/07

Becky Weber

Director

Air, RCRA and Toxics Division

EPA Region 7

  
\_\_\_\_\_

Date: 9/10/07

Sarah Thibos LaBoda

Assistant Regional Counsel

EPA Region 7

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

  
\_\_\_\_\_

Date: 9/12/07

Karina Borromeo

Regional Judicial Officer

*RMP INSPECTION FINDINGS*  
*Responses to CAA 112(r)Violations*

1. General – Management: The Risk Management Program has been reviewed by the current Water Treatment Supervisor. The previous Supervisor has retired and some of the program elements had not been accomplished. A Management Program has been created consisting of the following elements:
  - a. Operations Manager
  - b. Training
  - c. Health and Safety
  - d. Maintenance
  - e. Hazmat
2. Prevention Program – Safety Information: The MSDS for chlorine have been updated and a scheduled check for newer issues has been implemented.
3. Prevention Program – Safety Information: Fan switches have been moved to the outside of Chlorine areas and placed next to light switches. Fan belt has been replaced on Storage Room blower.
4. Prevention Program – Hazard Review: A hazard review was conducted on August 12, 2007, and (2) deficiencies were noted for correction by September 30, 2007. A 5-year update has been scheduled.
5. Prevention Program – Compliance Audits: A Compliance Audit was conducted on August 18, 2007. A 3-year review has been scheduled.
6. Risk Management Plan: Emergency contact information has been updated.

**RMP INSPECTION FINDINGS**

**City of Wellington  
Wastewater Treatment Facility  
50<sup>th</sup> Street South and Lake Road  
Wellington, Kansas 67152**

CAA 112(r) Violations

VIOLATIONS

PENALTY AMOUNT

**General - Management [68.15]**

**\$300.00**

1. The owner or operator has failed to develop a management system to oversee the implementation of the risk management program elements. [68.15(a)]

*How was this addressed:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Prevention Program – Safety Information [68.48]**

**No Penalty**

2. The owner or operator failed to maintain current Material Safety Data Sheets (MSDS) that meet the requirements of the OSHA Hazard Communication Standard at 29 C.F.R. § 1910.1200(g). [68.48(a)(1)]

*How was this addressed:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Prevention Program - Safety information [68.48]**

**\$750.00**

3. The owner or operator has failed to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. [68.48(b)]

*How was this addressed:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Prevention Program - Hazard Review [68.50]**

**\$450.00**

4. The owner or operator has failed to conduct a review of the hazards associated with the regulated substances, processes, and procedures. [68.50(a)]

*How was this addressed:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Prevention Program - Compliance audits [68.59]**

**\$300.00**

- 5. The owner or operator failed to certify that the compliance audits are conducted at least every three years to verify that the procedures and practices are adequate and are being followed. [68.58(a)]

*How was this addressed:* \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Risk Management Plan [68.160 - 168.195]**

**\$1000.00**

- 6. The owner or operator failed to update the emergency contact information required at 68.160(b)(6) within thirty days of the change. [68.195(b)]

*How was this addressed:* \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**TOTAL**

**\$2800.00**

**Calculation of Adjusted Penalty**

**1st** Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for the population of the municipality of 8647 (2000 census data) gives a multiplier factor of 0.2. Therefore, the multiplier for the City of Wellington Water Treatment Plant = 0.2.

**2nd** Adjusted Penalty = \$2800.00 (Unadjusted Penalty) X 0.2 (Size-Threshold Multiplier)  
 Adjusted Penalty = \$560.00

**3rd** An Adjusted Penalty of \$560.00 would be assessed to the City of Wellington Water Treatment Plant for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

**TOTAL ADJUSTED PENALTY**

**\$560.00**

The approximate cost to correct the above items: \$ \_\_\_\_\_

Compliance staff name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

IN THE MATTER OF City of Wellington Water Treatment Plant, Respondent  
Docket No. CAA-07-2007-0037

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Sarah LaBoda  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Larry Mangan, P.E.  
City Administration Center  
317 South Washington  
Wellington, Kansas 67152

Dated: 9/12/07

  
Kathy Robinson  
Hearing Clerk, Region 7