



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140

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HEARINGS CLERK
OFFICE OF
FOIA COMPLIANCE AND ENFORCEMENT

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2019-0006
This ESA is issued to: Flexible Foam Products, Inc.
1205 Prudential Boulevard
Longview, Washington 98632

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by Flexible Foam Products, Inc. ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA has determined that Respondent violated the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (CAA), as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary ("Summary"), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$2,000**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Summary, and consents to the assessment of the penalty as stated above.

Respondent waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the CAA, 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 Respondent has corrected the violations listed in the enclosed Summary.

Respondent agrees to submit payment in full of the \$2,000 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This original ESA must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mail Stop: OCE-201
Seattle, Washington 98101

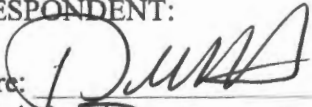
Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA is not returned to the EPA Region 10 at the above address by 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 Summary.

This ESA is binding on the parties signing below.

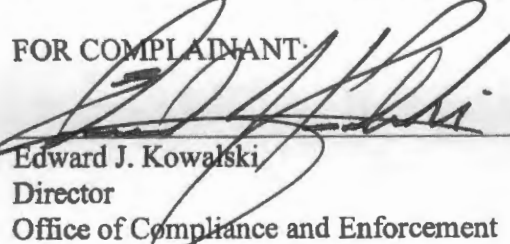
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: 
Name (print): DONALD N. PILGER, JR.
Title (print): PLANT MANAGER
Cost to correct violation(s): \$ 2000⁰⁰

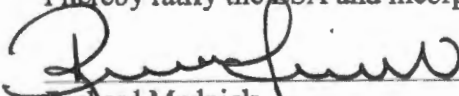
Date: 10/26/18

FOR COMPLAINANT:


Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 11/5/18

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


Richard Mednick
Regional Judicial Officer

Date: 11/6/18



U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME Flexible Foam Products, Inc.	<input checked="" type="checkbox"/> PRIVATE <input type="checkbox"/> GOVERNMENTAL/MUNICIPAL
FACILITY LOCATION 1205 Prudential Boulevard, Longview, Washington 98632	# EMPLOYEES: 70 POPULATION SERVED:
MAILING ADDRESS 1205 Prudential Boulevard, Longview, Washington 98632	INSPECTION START DATE AND TIME: August 23, 2018 INSPECTION END DATE AND TIME: August 23, 2018
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER Mr. Mark Dailey, (360) 575-8844	EPA FACILITY ID# 1000 0019 3113
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S) Mr. Mark Dailey, General Manager, (360) 575-8844	INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Javier Morales, RMP Coordinator, (206) 553-1255
	INSPECTOR SIGNATURE <i>Javier Morales</i> DATE 9/18/2018

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DATE RMP FILED WITH EPA: 9/2/2005	DATE OF LATEST RMP UPDATE: 7/29/2013
1) PROCESS/NAICS CODE: 32615	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>
REGULATED SUBSTANCE: Toluene diisocyanate	MAX. QUANTITY IN PROCESS: 400,000 (lbs.)

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

The owner or operator must review and update the RMP as specified in 40 C.F.R. § 68.190(b) as required by § 68.190(a). Flexible Foam Products, Inc. failed to submit an updated RMP to EPA at least once every five years as required by § 68.190(a) and (b)(1). The first submission of the RMP that EPA has on file is dated 9/2/2005. The latest RMP submission that EPA has on file is dated 7/29/2013. The five-year update was due 7/29/2018.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
ATTACHED CHECKLIST(S):	<input checked="" type="checkbox"/> PROGRAM LEVEL 1 PROCESS CHECKLIST <input type="checkbox"/> PROGRAM LEVEL 2 PROCESS CHECKLIST <input type="checkbox"/> PROGRAM LEVEL 3 PROCESS CHECKLIST

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Flexible Foam Products, Inc.** Docket No.: CAA-10-2019-0006, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

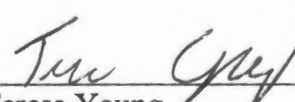
The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
1200 Sixth Avenue, OCE-101
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mr. Donald N. Pilger, Jr.
Plant Manager
Innocor Foam Technologies – APC, Inc.
Innocor, Inc.
1205 Prudential Boulevard
Longview, Washington 98632

DATED this 6 day of November, 2018



Teresa Young
Regional Hearing Clerk
EPA Region 10