



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEWYORK, NY 10007-1866

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-02-2020-1204
This ESA is issued to: Arctic Glacier
900 Turk Hill Road
Fairport, NY 14450

Filed September 17, 2020 @ 8:34am
USEPA – Region II
Regional Hearing Clerk

This Expedited Settlement Agreement (“ESA”) is being entered into by the U.S. Environmental Protection Agency, Region 2 (“EPA”), by its duly delegated official, and by Arctic Glacier (“Respondent”) pursuant to Sections 113(a)(3) and (d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). EPA and the United States Department of Justice have jointly determined that EPA may pursue this type of case as an administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

ALLEGED VIOLATIONS

On October 24, 2019, EPA conducted an inspection at Respondent’s facility, located at 900 Turk Hill Road in Fairport, New York to determine compliance with the Act’s Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 pursuant to Section 112(r) of the Act. By letter dated November 20, 2019, EPA provided a copy of its inspection report to Respondent. Pursuant to the inspection, EPA has determined that Respondent violated the RMP regulations described in the attached Risk Management Program Findings (“Findings”). EPA described the violations in a letter sent to Arctic Glacier dated June 29, 2020.

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 Findings for the total penalty amount of three thousand nine hundred sixty dollars (\$3,960).

For purposes of this proceeding, Respondent agrees to the following: it waives any objections that it may have regarding jurisdiction; it neither admits nor denies the specific factual allegations contained in the Findings; it consents to the assessment of the penalty as stated herein; and it waives its rights to contest the allegations contained herein, or 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 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 described in the Findings.

After signature, a scanned copy of the signed ESA must be sent by email to Francesco Maimone at the following email address: Maimone.Francesco@epa.gov. The original, signed ESA must be sent by certified mail to:

Francesco Maimone, Physical Scientist
Air Compliance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007

The ESA, when executed by both parties and the Regional Judicial Officer and filed with the Regional Hearing Clerk, is binding on EPA and Respondent. Upon such filing and Respondent's timely payment of the penalty, EPA agrees it will not take any further civil penalty action against Respondent for the alleged violations of the Act referenced herein.

Nothing in this ESA shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This ESA does not relieve, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations promulgated or permits issued thereunder.

If the signed ESA is not returned to EPA Region 2 as instructed herein by Respondent within 45 days of the date of Respondent's receipt of it (or within 90 days if an extension is requested and granted), the proposed ESA is withdrawn, without any prejudice regarding EPA's ability to file an enforcement action for the alleged violations identified herein.

Respondent agrees to submit a payment in full of \$3,960 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

PAYMENT INSTRUCTIONS

EPA requests that payments be made through the <http://Pay.gov> website using the following link: <https://www.pay.gov/public/form/start/11751879>.

Please ensure that the following information is included on the payment form:

- i. Amount of payment: \$3,960
- ii. Name of Respondent: Arctic Glacier
- iii. Docket No.: CAA-02-2020-1204

To ensure your payment is recorded properly, you are required to notify EPA contemporaneously with the payment. Please send an email message or letter that references the date of the payment, the payment amount, the docket number, and your name and address to the following: Francesco Maimone, at his email or address, shown above, and to:

Jean Regna
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
email: Regna.Jean@epa.gov

Milton Wise
U.S. Environmental Protection Agency
26 W. Martin Luther King Drive
Attention: FINANCE
MS: NWD
Cincinnati, OH 45268
emails: Wise.Milton@epa.gov and cinwd_acctsreceivable@epa.gov

and

Karen Maples, Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
email: Maples.Karen@epa.gov

Failure to pay the penalty when due may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the penalty, including accrued interest, attorney's fees, collection costs, and nonpayment penalties.

For purposes of the requirements of 26 U.S.C. § 162(f) of the Internal Revenue Code, the cost of actions taken to come into compliance with the violations identified herein are "restitution or paid to come into compliance with law."

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

FOR RESPONDENT:

Signature: Debra Rodd

Date: 09/02/2020

Name (print): Debra Rodd

Title (print): Chief Accounting Officer

FOR COMPLAINANT:

Date: _____

for Dore F. LaPosta, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 2

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

Date: _____

Helen Ferrara
Regional Judicial Officer
U.S. EPA, Region 2

Risk Management Program Findings
CAA § 112(r) Violations

Arctic Glacier
900 Turk Hill Road
Fairport, NY 14450

COMPLETE THIS FORM AND RETURN IT WITH THE ESA

<u>VIOLATION</u>	<u>PENALTY AMOUNT</u>
<u>Subpart B Hazard Assessment</u>	
<i>Hazard Assessment [40 CFR 68.30(a)]</i> The owner or operator's Risk Management Plan underestimated the potentially impacted population within the Alternative Case release scenario.	\$600
<i>Hazard Assessment [68.39(c)]</i> The owner or operator failed to use the most recent Census data, or other updated information, to estimate the population potentially affected by the Worst Case and Alternative Case release scenarios.	\$600
<u>Subpart D Prevention Program</u>	
<i>Process Safety Information [68.65(d)(2)]</i> The owner or operator failed to ensure that certain equipment areas conformed with applicable recognized and generally accepted good engineering practices.	\$1,500
<i>Process Hazard Analysis [68.67(e)]</i> The owner or operator failed to implement a system to track and document the resolution of Process Hazard Analysis findings and recommendations.	\$1,500
<i>Mechanical Integrity [68.73(d)(3)]</i> The owner or operator failed to ensure that the frequency of inspections and tests are consistent with good engineering practices.	\$900
<i>Compliance Audit [68.79(a)]</i> The owner or operator failed to evaluate compliance with Subpart D requirements at least every three years.	\$1,200
<i>Compliance Audit [68.79(d)]</i> The owner or operator failed to document a response and resolution to each Compliance Audit finding.	\$300
Total:	\$6,600

Adjustments to Penalty

Pursuant to EPA's "Expedited Settlement Penalty Matrix, Multiplier Factors For Calculating Proposed Penalties For Violations Found During RMP Inspections," a multiplier factor of 0.6, in consideration of the size of the company (10-100 employees) and the quantity of the regulated substance (1 - 5 times the threshold quantity), is being applied to reduce the penalty.

$$\$6,600 \times 0.6 \text{ (multiplier factor)} = \$3,960$$

Total Penalty

\$3,960

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

Compliance staff name: _____

Signed: Debra Rodd. Date: Sept. 2, 2020
Debra Rodd
Chief Accounting Officer