



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

Received by
EPA Region 1
Hearing Clerk

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-01-2023-0068

This ESA is issued to: Astro Chemicals, Inc., 126 Memorial Drive, Springfield, MA 01104 **for violating Section 112(r)(7) of the Clean Air Act.**

This Expedited Settlement Agreement (“ESA”) is being entered into by the United States Environmental Protection Agency (“EPA”), Region 1, by its duly delegated official, James Chow, Acting Director, Enforcement and Compliance Assurance Division, and by Respondent Astro Chemicals, Inc., (“Respondent”), pursuant to Sections 113(a)(3) and (d) of the Clean Air Act (“Act”), 42 U.S.C. §§ 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). EPA and the U.S. Department of Justice have jointly determined that this action is an appropriate administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

ALLEGED VIOLATIONS

On September 15, 2021, authorized EPA representatives conducted a compliance inspection of Astro Chemicals, Inc., 126 Memorial Drive, Springfield, MA 01104 (“Facility”) to determine its compliance with the Risk Management Program (“RMP”) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA found that Respondent had violated regulations implementing Section 112(r) of the Act as noted on the attached “Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Form” (“Form”), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent’s size of business, compliance history, 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 attached Form, for the total penalty amount of \$3,000.

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 Form, 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 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 attached Form. Respondent agrees to submit payment of the \$3,000 penalty within 30 days of receiving a fully executed copy of this ESA. Respondent may pay the penalty by cashier's check, certified check, or wire transfer.

If payment is made by check, make payable to "Treasurer, United States of America," include Docket Number CAA-01-2023-0068, and send to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

If payment is made by wire transfer, include the Docket Number CAA-01-2023-0068 in Field Tag 6000 and "D 68010727 Environmental Protection Agency" in Field Tag 4200. The wire transfer account is:

Federal Reserve Bank of New York
33 Liberty Street
New York NY 10045
ABA: 021030004
Account: 68010727
SWIFT address: FRNYUS33

Respondent must also email a copy of the check or wire transfer receipt to:

Tyler Diercks, EPA Inspector
diercks.tyler@epa.gov

and

Mary Jane O'Donnell, Waste & Chemical Compliance Section Manager, EPA
Odonnell.MaryJane@epa.gov

and

Wanda I. Santiago, Regional Hearing Clerk
R1_Hearing_Clerk_Filings@epa.gov

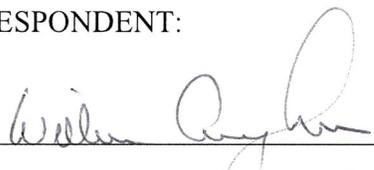
Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above and in the Form. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, 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 ESA is not returned to the EPA Region 1 office at the address above by Respondent within 30 days of the date of receipt, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the cited violations. If you do not sign and return the ESA and pay the penalty on time, EPA may pursue more formal enforcement measures, including seeking civil penalties of up to \$55,808 per day for each violation. This ESA is binding on the parties signing below.

Pursuant to 40 C.F.R. § 22.31(b), a final order is effective upon filing.

Complainant and Respondent, by entering into this ESA, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed ESA, by electronic mail, to the following address: wpcjr@astrochemicals.com. Respondent understands that this e-mail address may be made public when the ESA and Certificate of Service are filed and uploaded to a searchable database. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with and be maintained in accordance with that Order.

RESPONDENT:



Date: 8/11/23

Name (print): William Cunningham

Title (print): Vice President

FOR COMPLAINANT:



Date: 8/15/23

James Chow, Acting Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 1

I hereby ratify the ESA resolving *In the Matter of Astro Chemicals, Inc.*, Docket No. CAA-01-2023-0068, and incorporate it herein by reference. It is so ORDERED.

LeAnn Jensen
Regional Judicial Officer
U.S. EPA Region I

Date: _____



U.S. ENVIRONMENTAL PROTECTION AGENCY

RISK MANAGEMENT PROGRAM INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with the accidental release prevention requirements of Section 112(r)(7) of the Clean Air Act (Act), 42 U.S.C. sec. 7412(r)(7), and the regulations set forth at 40 C.F.R. Part 68. 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 chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

Facility Name: Astro Chemicals, Inc. Type: PRIVATE. Employees: Approximately 63. Address: 126 Memorial Drive, Springfield, MA 01104. Inspection dates: September 15, 2021. Responsible Official: Bill Cunningham Jr., Vice President. EPA Facility ID#: 1000 0021 9337. Inspector: Tyler Diercks, EPA Region 1.

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR Part 68)? YES. DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185 AND UPDATE THE RMP AS PROVIDED IN 68.190 TO 69.195? YES. DATE RMP INITIALLY FILED WITH EPA: 10/09/2012. DATE OF RMP UPDATES: 11/13/2017, 11/07/2022. 1) PROCESS/NAICS CODE: 424690. PROGRAM LEVEL: 1. REGULATED SUBSTANCE: Ammonium Hydroxide (>20%), Hydrochloric Acid (>37%). MAX. QUANTITY IN PROCESS: 124,000 lbs, 150,950 lbs.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES? YES. ATTACHED CHECKLIST(S): PROGRAM LEVEL 1 PROCESS CHECKLIST, PROGRAM LEVEL 2 PROCESS CHECKLIST, PROGRAM LEVEL 3 PROCESS CHECKLIST. OTHER: . ATTACHMENTS: .

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 5 POST OFFICE SQUARE
 BOSTON, MA 02109-3912

Process Checklist (Findings) and Alleged Violations and Proposed Penalty Form:

1. Program Level 2 Alleged Violations and Unadjusted Penalties

Section C – Prevention Program – Hazard Review [68.50]	
Has the owner or operator conducted a review of the hazards associated with the regulated substances, processes, and procedures? [68.50(a)] – At the time of the inspection, the facility had not performed a hazard review.	\$900.00
Section C – Prevention Program – Hazard Review [68.50]	
Did the review identify: <input type="checkbox"/> The hazards associated with the process and regulated substances? [68.50(a)(1)] <input type="checkbox"/> Opportunities for equipment malfunctions or human errors that could cause an accidental release? [68.50(a)(2)] <input type="checkbox"/> The safeguards used or needed to control the hazards or prevent equipment malfunctions or human error? [68.50(a)(3)] <input type="checkbox"/> Any steps used or needed to detect or monitor releases? [68.50(a)(4)] – At the time of the inspection the facility had not performed a hazard review.	\$1200.00
Section C – Prevention Program – Hazard Review [68.50]	
Determined by inspecting all equipment that the processes are designed, fabricated, and operated in accordance with applicable standards or rules, if designed to meet industry standards or Federal or state design rules? [68.50(b)] – At the time of the inspection, the facility had not performed a hazard review.	\$600.00
Section C – Prevention Program – Hazard Review [68.50]	
Documented the results of the review? [68.50(c)] – At the time of the inspection, the facility had not performed a hazard review.	\$300.00

Total unadjusted penalty: \$3,000

2. Size-Threshold Quantity Multiplier

The Size-Threshold Quantity multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility.

Expedited Settlement Penalty Matrix: Private Industries

# of Employees	Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site		
	1 – 5	>5 – 10	> 10
0 – 9	0.4	0.6	0.8
10 – 100	0.6	0.8	1.0
> 100	1.0	1.0	1.0

Size/Threshold Quantity multiplier from Expedited Settlement Penalty Matrix: **1.0**

3. Proposed Penalty

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

$$\begin{aligned} \text{Proposed Penalty} &= \mathbf{\$3,000} \text{ (Unadjusted Penalty)} \\ &\times \mathbf{1.0} \text{ (Size/Threshold Quantity Multiplier)} \\ &= \mathbf{\$3,000} \end{aligned}$$