

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

THOMAS PETROLEUM, LLC
PILOT THOMAS LOGISTICS, LLC

RESPONDENT

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DOCKET NO. EPCRA-06-2019-0501

COMPLAINANT'S INITIAL PREHEARING EXCHANGE

Comes now the United States Environmental Protection Agency (EPA or Complainant) in response to the Prehearing Order issued in this matter, respectfully submits its Initial Prehearing Exchange, stating as follows:

1.A. Witnesses Intended to be Called at Hearing

David Riley: Mr. Riley will testify as a fact witness and as an expert witness. Mr. Riley's resume is attached as Attachment B.

Mr. Riley's responsibilities on the EPA Region 6 EPCRA Section 313 Enforcement Team are to conduct investigations of facilities subject to EPA statutes and regulations; analyze technical information obtained from EPA inspections, EPA technical manuals and reports, and from other sources; evaluate the compliance status of facilities; prepare or assist in the preparation of inspection reports, administrative orders and agreements, penalty calculations and other agency documents. Mr. Riley has worked as an inspector and enforcement officer in the EPCRA § 313 program since 2008.

Mr. Riley has had primary responsibility for the investigation of Respondent for EPCRA Section 313 compliance since his assignment to the case in 2015. Mr. Riley will authenticate evidence, testify to the facts supporting the allegations in the Administrative Complaint and the calculation of the proposed penalty, and discuss the applicability of the EPCRA § 313 Enforcement Response Policy to this matter. Mr. Riley will also testify regarding documents he received from Larry Stranne prior to Mr. Stranne's retirement in 2015.

Dr. Morton Wakeland: Dr. Wakeland is a Federal Enforcement Officer for the Toxics Enforcement Section in the Enforcement & Compliance Assurance Branch for EPA Region 6. He has overseen the enforcement and compliance of EPCRA § 313 reporting for the region for the past 25 years. Dr. Wakeland will testify as a fact witness and an expert witness. Dr. Wakeland's resume is attached as Attachment C.

Dr. Wakeland was involved in redevelopment of the EPCRA section 313 Enforcement Response Policy. Dr. Wakeland helped develop the self-Disclosure Program for EPCRA section 313 which developed later into the electronic eDisclosure Program, and he developed programs using Excel's VBA programming language to evaluate a facility's reporting history over the previous consecutive 5 years.

Dr. Wakeland will testify to his experience in Region 6's EPA Region 6 EPCRA 313 Enforcement and TRI Program and his role in the investigation of the Thomas Petroleum facilities in Region 6. Dr. Wakeland will discuss the applicability of the EPCRA § 313 regulations and ERP to the facts in this case.

Juan Parra: Mr. Parra is a technical expert for the TRI-MEweb application at EPA Headquarters. He will testify as an expert. He has worked at EPA since 1999 in the Office of Solid Waste and in the Office of Mission Support-Office of Environmental Information. In his role in

OMS, Mr. Parra worked in the development and implementation of the TRI-Made Easy web application (TRI-MEweb) that collects EPCRA Section 313 data from 22,000 industrial facilities on an annual basis.

He will testify about the TRI-MEweb application and his work experience in EPA’s Office of Environmental Information. His duties include serving as a technical expert for complex issues regarding electronic reporting and researching any issues regarding transactions that are completed by facilities to meet their EPCRA Section 313 reporting requirements.

Mr. Parra’s resume is attached as Attachment D.

B. Exhibits Intended to be Produced at Hearing

Copies of documents and exhibits that Complainant intends to introduce into evidence at the hearing are submitted electronically using the OALJ E-Filing System. Documents with business confidentiality claims have been submitted pursuant to 40 CFR 22.5(d)(2).

CX 1	Email to Thomas re: TRI Facility Locational Information (9/4/14)
CX 2	Emails re: Thomas Petroleum -- Tyler Warehouse (09/9/14—9/11/14)
CX 3	Emails re: Thomas Petroleum – Tyler Warehouse (9/11/14-9/15/14)
CX 4	Inspection Notice and Checklist (9/18/14)
CX 5	Thomas Letter re: Tyler Facility with TRI Data Attachments (10/3/14)
CX 6	EPA Inspection Report—Tyler Facility with Attachments (12/29/14)
CX 7	Letter to Thomas re: Records Review with Attachments (09/18/14)
CX 8	Thomas Letter re: Region 6 Facilities with TRI Data Attachments. Stranne handwritten notes. (09/29/14)
CX 9	Thomas Letter re: Region 6 Facilities with TRI Data Attachments. Stranne handwritten notes. (10/24/14)
CX 10	Thomas Letter re: Region 6 Facilities with TRI Data Attachments. Stranne handwritten notes. (10/24/14)
CX 11	Thomas Letter re: La Grange and Victoria Facilities with TRI Data Attachment. Stranne handwritten note. (10/27/14)
CX 12	Thomas Letter re: Region 6 Facilities with TRI Data Attachments. Stranne handwritten notes. (10/28/14)
CX 13	Thomas Letter re: San Benito Facility with TRI Data Attachments. Stranne handwritten notes. (10/29/14)
CX 14	Letter to Thomas re: Naphthalene with Attachments (01/02/15)

CX 15	Thomas Letter re: Naphthalene with Attachments (01/16/15)
CX 16	Letter to Thomas re: Diethanolamine with Attachments (01/02/15)
CX 17	Thomas Letter re: Diethanolamine with Revised 2012 and 2013 TRI Data for the Victoria Facility. Stranne handwritten note. Attachments (02/09/15)
CX 18	EPA Desk Audit Report with TRI Data Attachments (05/06/15)
CX 19	Thomas Petroleum LLC Arkansas TRI Report, 2012
CX 20	Thomas Petroleum LLC Arkansas TRI Report, 2013
CX 21	Thomas Petroleum LLC Lafayette TRI Report, 2012
CX 22	Thomas Petroleum LLC Lafayette TRI Report, 2013
CX 23	Thomas Petroleum LLC Hobbs TRI Report, 2012
CX 24	Thomas Petroleum LLC Hobbs TRI Report, 2013
CX 25	Thomas Petroleum LLC Beaumont TRI Report, 2012
CX 26	Thomas Petroleum LLC Beaumont TRI Report, 2013
CX 27	Thomas Petroleum LLC Bridgeport TRI Report, 2012
CX 28	Thomas Petroleum LLC Bridgeport TRI Report, 2013
CX 29	Thomas Petroleum LLC Corpus/Robstown TRI Report, 2012
CX 30	Thomas Petroleum LLC Corpus/Robstown TRI Report, 2013
CX 31	Thomas Petroleum LLC LaGrange TRI Report, 2012
CX 32	Thomas Petroleum LLC LaGrange TRI Report, 2013
CX 33	Thomas Petroleum LLC Laredo TRI Report, 2012
CX 34	Thomas Petroleum LLC Laredo TRI Report, 2013
CX 35	Thomas Petroleum LLC Odessa TRI Report, 2012
CX 36	Thomas Petroleum LLC Odessa TRI Report, 2013
CX 37	Thomas Petroleum LLC San Benito TRI Report, 2012
CX 38	Thomas Petroleum LLC San Benito TRI Report, 2013
CX 39	Thomas Petroleum LLC Tyler TRI Report, 2012
CX 40	Thomas Petroleum LLC Tyler TRI Report, 2013
CX 41	Thomas Petroleum LLC Victoria TRI Report, 2012
CX 42	Thomas Petroleum LLC Victoria TRI Report, 2013
CX 43	40 CFR 372-65 Chemicals and Chemical Categories to Which This Part Applies.
CX 44	Postmark Date Definition TRI
CX 45	Thomas Letter to D Riley with Sales and FTE Chart (12/01/15)
CX 46	EPCRA 313 ERP (2017)
CX 47	40 CFR Part 372, Alternate Threshold, 47 Federal Register, Volume 59 Issue 229 (Wednesday, November 30, 1994)
CX 48	Thomas Letter to D Riley (01/14/16)
CX 49	Thomas Letter to J Murdock (12/16/16)
CX 50	Electronic Reporting of Toxics Release Data, 78 Fed. Reg. 52860- 52868 (August 27, 2013)
CX 51	Delegation R6-22-3-B. EPCRA Enforcement Representation in Hearing and Negotiations (12/14/15)
CX 52	Delegation R6-22-3-A. EPCRA Administrative Enforcement Actions (12/14/15)

C. APPROPRIATE PLACE OF HEARING; ESTIMATE OF TIME NEEDED TO PRESENT DIRECT CASE; TRANSLATION SERVICES

As stated in Complainant's Preliminary Statement, Complainant prefers the hearing in this case take place in Dallas, Texas, specifically in the EPA Region 6 hearing room located at 1250 Elm Street, Dallas, Texas.

Subject to cross-examination and stipulations, Complainant estimates it will need two days to present its case.

Complainant does not need a translator.

2.A. Documentation of Service

Attachment A to this Initial Prehearing Exchange shows service was completed in accordance with 40 C.F.R. § 22.5(b)(1).

B. Clarification of Respondents

After receipt of additional information from Thomas, Complainant is not pursuing this matter against Pilot Thomas Logistics, LLC, and plans to file a motion to amend the complaint accordingly.

C. Narrative Statement Explaining Factual/Legal Bases for Allegations Denied or Otherwise Not Admitted in Answer

In accordance with the Presiding Officer's instructions and 40 C.F.R. § 22.19, Complainant sets forth in this section a brief narrative statement of the factual and legal bases for the allegations that Respondents denied or otherwise did not admit in their Answer.

Complainant refers to exhibits by their CX number in the chart above, and to Respondent's May 20, 2019 *Answer to Complaint, Affirmative Defenses and Request for Hearing* ("Answer")

and the Parties' February 13, 2020 *Joint Stipulations of Fact and Law* ("Stipulations"), as well as various legal authorities.

Paragraphs 1-7

Paragraphs 1-7 provide a general regulatory and statutory background to the complaint and do not contain factual allegations or legal conclusions specific to the counts alleged in the complaint.

Paragraph 9

Thomas admits that it has at one time or another owned or operated the identified facilities (*Answer*).

The Parties stipulate that Thomas owned or operated the facilities during 2012 and 2013 (*Stipulations*).

The Parties stipulate that Thomas submitted TRI reports in 2014 for all the facilities listed in Paragraph 9 (*Stipulations*).

Paragraph 10

Based on receipt of additional information from Thomas, Complainant believes this paragraph is not a necessary allegation and Complainant plans to amend the complaint accordingly.

Paragraph 14

Thomas admits that each facility had ten or more full-time employees at some point in 2012 and 2013 (*Answer*).

The Parties stipulate that each of the Facilities had ten (10) or more "full-time employees", as defined by 40 CFR 372.3, for calendar years 2012 and 2013 (*Stipulations*, p. 20).

Paragraph 15

Thomas admitted that for 2012 or 2013 Thomas listed NAICS code 424710 as applicable to all the identified facilities. Additionally, in Paragraphs 15, 50, 79, 108, 158, 196, 228, 260, 298, 336, 377, and 406 Thomas admitted that it listed NAICS code 424710 as applicable to all specified facility for the applicable years. (*Answer*)

NAICS code 424710 is listed in 40 C.F.R. §§ 372.23(c) as an industry classification subject to 40 CFR Part 372.

The Parties stipulate that NAICS code 424710 is covered under 40 C.F.R. Part 372, and 40 C.F.R. Part 372 applies to facilities with these codes (*Stipulations*, p. 20).

Paragraph 16

Thomas admitted in its answer that that each of the facilities manufactured, processed, or otherwise used one or more of the listed chemicals.

In **CX 19-42 TRI Reports**, the TRI Reports submitted by Thomas Petroleum establish the chemicals used by the respective facilities in the given years.

See **Summary Narrative and Facility-Specific Responses** below.

Paragraph 17

Each of the chemicals listed in this paragraph is a listed toxic chemical in 40 C.F.R. § 372.65. **CX 43**.

Paragraph 18

The TRI Reports and data submitted by Thomas establish Thomas's knowledge of the type and quantity of toxic chemicals manufactured, processed, or otherwise used at the facility. **CX 19-42, TRI Reports, CX 6-13, CX 15, and CX 17**.

Paragraph 19

Larry Stranne' s reports establish dates of the inspection and submission of the desk audit, though those dates are not material to any of the violations pled in the Complaint. **CX 18 EPA Desk Audit Report (05/06/15)** and **CX 6 EPA Inspection Report—Tyler Facility with Attachments (12/29/14)**

VIOLATIONS

Amendments

Complainant is not pursuing Counts 11, 29, 57, 67, 77, 89, 101, and 123 and plans to file a motion to amend the complaint accordingly. As such, those counts are not addressed below.

Summary Narrative

EPA's Complaint alleges counts for failing to submit appropriate EPA reporting forms by July 1 of the year following chemical use.

In its answer, Thomas did not admit that it failed to file an appropriate reporting form for the specified chemical, reporting year, and facility for any of the counts alleged in the Complaint.

Thomas did admit for each count alleged in the Complaint that for each reporting year, the facility "manufactured, processed, or otherwise used" the specified chemical in excess of the applicable threshold (*Answer*).

Thomas also admitted for each count alleged in the Complaint that for each reporting year, the facility had ten or more full-time employees (*Answer; Stipulations*).

Additionally, Thomas admitted for each count alleged in the Complaint that for each reporting year, the NAICS Code 424710 was applicable to the facility, and that SIC Code 5171 and NAICS code 424710 are covered under 40 C.F.R. Part 372, and 40 C.F.R. Part 372 applies to facilities with these codes (*Answer; Stipulations*).

Each count in the Complaint alleges Thomas failed to timely submit a completed appropriate EPA reporting form for the specified chemical and facility by July 1 of the year following the specified calendar year in violation of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

42 U.S.C. § 11023(a) requires an owner or operator of a facility subject to the requirements of EPCRA to complete a toxic chemical release form for each covered toxic chemical that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity during the preceding calendar year at such facility. Such form shall be submitted annually on July 1.

40 CFR § 372.30 specifies that the appropriate form may be a Form R, Form A, or Form R Schedule 1, as appropriate, and repeats the requirement that each report for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year.

Under 42 U.S.C. § 11023(a) and 40 CFR § 372.30, reports for chemical use in 2012 were due July 1, 2013, and reports for chemical use in 2013 were due July 1, 2014.

The counts may be categorized into three groups, with specific responses based on the facility below:

Group 1: Non-naphthalene Counts for 2012

For all counts alleging 2012 reporting year violations for any chemical besides naphthalene, Thomas acknowledges that it submitted TRI reports for 2012 in October 2014 (*Joint Stipulations*)

Additionally, all TRI submittals related to counts alleging 2012 reporting year violations are marked with an Original Postmark Date in or after October 2014 in the TRI database (**CX 19-41 TRI Reports**, specified in facility responses below).

The Original Postmark Date provides the Postmark Date for the original submission of a reporting form. This data element provides the Postmark Date for the original submission prior to a revision. For reports without revisions, the Original Postmark Date is the same as the Postmark Date, Received Date, and Certification Date (***CX 44 TRI Postmark Date Definition***)

In a September 18, 2014 letter to Thomas, EPA requested usage and release calculations for each facility from 2009 to 2013 (***CX 7 Stranne Inspection Notice***). Thomas responded with a series of letters:

In a September 29, 2014 letter, Thomas reported that filings may have been necessary for 2012 for the Beaumont, San Benito, and Broussard Facilities and that it was gathering data for those facilities and for the Tyler Facility (***CX 8 Thomas Letter re: Region 6 Facilities with 2013 TRI Data Attachments***).

In an October 3, 2014 letter, Thomas reported filing a TRI report for 2012 for the Tyler Facility. (***CX 5 Thomas Letter re: Tyler with TRI Data Attachments***).

Thomas reported filing TRI reports for 2012 for the Bridgeport, Corpus Christi, and Hobbs Facilities in an October 24, 2014 letter (***CX 10 Thomas Letter re: Region 6 Facilities with 2012 TRI Data Attachments***).

Thomas reported filing TRI reports for 2012 for the LaGrange and Victoria Facilities in an October 27, 2014 letter (***CX 11 Thomas Letter re: Region 6 Facilities with 2012 TRI Data Attachments***).

Thomas reported filing TRI reports for 2012 for the San Benito Facility in an October 29, 2014 letter (***CX 13 Thomas Letter re: San Benito with TRI Data Attachments***)

Thomas acknowledged that it had not yet filed TRI reports for 2012 for Beaumont, Broussard, and Laredo in an October 24, 2014 (***CX 9 Thomas Letter re: Region 6 Facilities with***

2012 TRI Data Attachments for Beaumont, Broussard, and Laredo Facilities), and reported filing those reports in an October 28, 2014 letter (*CX 12 Thomas Letter re: Region 6 Facilities with 2012 TRI Data Attachments*)

Group 2: Non-Naphthalene Counts for 2013

Similarly, for all counts alleging 2013 reporting year violations for any chemical besides naphthalene, Thomas acknowledges that it submitted TRI reports for 2013 between October 2014 and January 2015 (*Stipulations*).

All TRI submittals related to counts alleging 2013 reporting year violations are marked with an Original Postmark Date in or after October 2014 in the TRI database (*CX 20-42*, specified in facility responses below).

Thomas timely reported for most chemicals for the 2013 reporting year except at the Broussard, Beaumont, and San Benito facilities.

In a September 29, 2014 letter, Thomas reported that filings may have been necessary for 2013 for the Beaumont, San Benito, and Broussard Facilities and that it was gathering data for those facilities and for the Tyler Facility (*CX 8 Thomas Letter re: Region 6 Facilities with 2013 TRI Data Attachments*).

In its October 28, 2014 letter, Thomas reported filing TRI reports for 2013 for the Odessa (Permian), Beaumont, and Broussard Facilities (*CX 12*).

In its October 29, 2014 letter, Thomas reported filing a TRI report for 2013 for the San Benito Facility (*CX 13*).

Group 3: Naphthalene Counts for 2012

These counts are substantially identical to those in Groups 1, except the parties have not stipulated that the TRI reports were submitted in or after October 2014.

Again, all TRI submittals related to counts alleging 2012 reporting year violations are marked with an Original Postmark Date in or after October 2014 in the TRI database (**CX 19-41 TRI Reports**, specified in facility responses below).

Facility-Specific Responses

Damascus Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in counts 1-10 at the Damascus Facility in quantities exceeding the toxic chemical threshold (*Answer*).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 1-5 and 7-9 on October 22, 2014 and Count 10 on January 28, 2015 (*Stipulations*).

Thomas originally submitted its TRI Report for 2012 (covering Counts 1-9) on October 22, 2014 (**CX 19 Thomas Petroleum LLC Arkansas TRI Report, 2012**).

Thomas originally submitted its TRI Report for 2013 diethanolamine use (Count 10) on January 28, 2015 (**CX 20 Thomas Petroleum LLC Arkansas TRI Report, 2013**).

See **Summary Narrative** above.

By first filing the reports referenced in counts 1-10 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

Broussard Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in counts 12-20 at the Broussard Facility in quantities exceeding the toxic chemical threshold (*Answer*).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 12-20 on October 28, 2014 (*Stipulations*).

Thomas originally submitted its TRI Report for 2012 (covering chemicals named in Counts 12-20) on October 28, 2014 (*CX 21 Thomas Petroleum LLC Lafayette TRI Report, 2012*).

By first filing the reports referenced in Counts 12-20 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

Hobbs Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 21-28 at the Hobbs Facility in quantities exceeding the toxic chemical threshold for 2012 (*Answer*).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 12-24 and 26-28 on October 22, 2014 (*Stipulations*).

Thomas originally submitted its TRI report for 2012 (covering Counts 12-28) on October 22, 2014 (**CX 23 *Thomas Petroleum LLC Hobbs TRI Report, 2012***).

By first filing the reports referenced in Counts 12-28 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 10**.

Beaumont Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 30-45 at the Beaumont Facility in quantities exceeding the toxic chemical threshold for 2012 and 2013 (*Answer*).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 30-33, 35-41, and 43-45 on October 27, 2014 (*Stipulations*).

Thomas originally submitted its TRI reports for 2012 and 2013 (covering Counts 30-45) on October 27, 2014 (**CX 25 and CX 26 *Thomas Petroleum LLC Beaumont TRI Report***).

By first filing the reports referenced in Counts 30-45 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 8, CX 9, and CX 12**.

Bridgeport Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 46-56 at the Beaumont Facility in quantities exceeding the toxic chemical threshold for 2012 and 2013 (*Answer*).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 46-50 and 52-55 on October 22, 2014 and for Count 56 on January 28, 2015 (*Stipulations*).

Thomas originally submitted its TRI report for 2012 (covering Counts 46-55) on October 22, 2014 and for Count 56 on January 28, 2015 (**CX 27 and CX 28 *Thomas Petroleum LLC Bridgeport TRI Report***).

By first filing the reports referenced in Counts 46-56 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 10**.

Robstown Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 58-66 at the Robstown Facility in quantities exceeding the toxic chemical threshold for 2012 (*Answer*).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 58-61 and 63-66 on October 22, 2014 (*Stipulations*).

Thomas originally submitted its TRI report for 2012 (covering Counts 58-66) on October 22, 2014 (**CX 29 *Thomas Petroleum LLC Corpus/Robstown TRI Report, 2012***).

By first filing the reports referenced in Counts 58-66 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 10**.

LaGrange Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 68-76 at the LaGrange Facility in quantities exceeding the toxic chemical threshold for 2012 (*Answer*; also, *Stipulations* for Counts 68-71 and 73-66).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 68-71 and 73-66 on October 25, 2014 (*Stipulations*).

Thomas originally submitted its TRI report for 2012 (covering Counts 68-76) on October 25, 2014 (**CX 31 Thomas Petroleum LLC LaGrange TRI Report, 2012**).

By first filing the reports referenced in Counts 68-76 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 11**.

Laredo Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 78-88 at the Laredo Facility in quantities exceeding the toxic chemical threshold for 2012 (*Answer*; also, *Stipulations*, for Counts 78-82 and 84-88).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 78-82 and 84-87 on October 28, 2014 and Count 88 on January 28, 2015 (*Stipulations*).

Thomas originally submitted its TRI report for 2012 (covering Counts 78-87) on October 28, 2014 and for 2013 use of diethanolamine (covering Count 88) on January 28, 2015 (**CX 33 and CX 34 *Thomas Petroleum LLC Laredo TRI Report***).

By first filing the reports referenced in Counts 78-88 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 9** and **CX 12**.

Odessa Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 90-100 at the Odessa Facility in quantities exceeding the toxic chemical threshold for 2012 and 2013 (*Answer*; also, *Stipulations*, for Counts 90-94 and 96-100).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 90-94 and 96-99 on October 28, 2014 and Count 100 on January 28, 2015 (*Stipulations*).

Thomas originally submitted its TRI report for 2012 (covering Counts 90-99) on October 28, 2014 and for 2013 use of diethanolamine (covering Count 100) on January 28, 2015 (**CX 35 and CX 36 *Thomas Petroleum LLC Odessa TRI Report***).

By first filing the reports referenced in Counts 90-100 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 12**.

San Benito Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 102-114 at the San Benito Facility in quantities exceeding the toxic chemical threshold for 2012 and 2013 (*Answer*; also, *Stipulations*, for Counts 102-104 and 106-114).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 102-104 and 106-114¹ on October 28, 2014 (*Stipulations*).

Thomas originally submitted its TRI reports for 2012 and 2013 (covering Counts 102-114) on October 28, 2014 (**CX 37 and CX 38 *Thomas Petroleum LLC San Benito TRI Report***).

By first filing the reports referenced in Counts 102-114 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 8 and CX 13**.

¹ The Parties' *Joint Stipulations* submitted to the court on February 13, 2020 states that the San Benito 2013 Form A for 1,2,4-Trimethylbenzene was submitted on October 28, 2019. EPA is treating this as a typographical error based on TRI data retrieved February 17, 2020. Please see **CX 38 *Thomas Petroleum LLC San Benito TRI Report, 2012***

Tyler Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 114-122 at the Tyler Facility in quantities exceeding the toxic chemical threshold for 2012 and 2013 (*Answer, Stipulations*; for Counts 115-118 and 120-122).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 115-118 and 120-122 on October 3, 2014 (*Stipulations*).

Thomas originally submitted its TRI reports for 2012 and 2013 (covering Counts 115-122) on October 3, 2014 (*CX 39 and CX 40 Thomas Petroleum LLC Tyler TRI Report*).

Thomas acknowledged to EPA in 2014 that it had not filed TRI reports for 2012 for the Tyler facility (*CX 2 Emails re: Thomas Petroleum -- Tyler Warehouse (09/9/14—9/11/14)*; *CX 3 Emails re: Thomas Petroleum – Tyler Warehouse (9/11/14-9/15/14)*; *CX 5*).

By first filing the reports referenced in Counts 102-114 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 8**.

Victoria Facility

Thomas admits manufacturing, processing, or otherwise using the chemicals specified in Counts 124-134 at the Victoria Facility in quantities exceeding the toxic chemical threshold for 2012 and 2013 (*Answer*; also, *Stipulations*, for Counts 124-128 and 130-134).

42 U.S.C. § 11023(a) and 40 CFR § 372.30 required Thomas to submit a reporting form by July 1 of the following year for every chemical manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold.

The Parties stipulate that Thomas submitted a reporting form for the chemicals named in Counts 124-128 and 130-133 on October 25, 2014 and Count 134 on January 28, 2015 (*Stipulations*).

Thomas originally submitted its TRI reports for 2012 and 2013 (covering Counts 124-134) on October 28, 2014 (*CX 41 and 42 Thomas Petroleum LLC Victoria TRI Report*).

By first filing the reports referenced in Counts 124-134 in or after October 2014, Thomas failed to meet the requirements of 42 U.S.C. § 11023(a) and 40 CFR § 372.30.

See **Summary Narrative** above and **CX 11**.

Please see the brief narrative statement and supporting documentation in Section D, Factual Information and Supporting Documentation Relevant to the Assessment of a Penalty, immediately following, for a response to Thomas's denial of the legal and factual assertions regarding the penalty discussions in the Complaint.

D. Factual Information and Supporting Documentation Relevant to the Assessment of a Penalty

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), as adjusted by 40 C.F.R. Part 19, authorizes EPA to assess a civil penalty for violations of any requirement of EPCRA Section 313, 42 U.S.C. § 11023.

At the time of each of the violations alleged in the Complaint, the maximum daily penalty for each violation was \$37,500.²

The *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act and Section 6607 of the Pollution Prevention Act* (“ERP”) is included as **CX 46 EPCRA 313 ERP with 2017 Amendments**, and available at the link below.

<https://www.epa.gov/sites/production/files/2017-03/documents/epcra313erpamendments2017.pdf>

The ERP was updated in accordance with the 2016 Civil Monetary Penalty Inflation Adjustment Rule, 81 FR 43091 (July 1, 2016), available at the link below.

<https://www.govinfo.gov/content/pkg/FR-2016-07-01/pdf/2016-15411.pdf>

At the time the complaint was filed, the 2019 Civil Monetary Penalty Inflation Adjustment Rule, 84 FR 2056 (February 6, 2019), available at the link below, was in effect.

<https://www.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2019-00785.pdf>

Consistent with EPA’s goals of assessing penalties reflecting the ERP and statutory factors, the following information is relevant to the assessment of a penalty:

Information related to the extent, nature, and gravity of the violation:

All the violations alleged in the Complaint are for a failure to report. A failure to report is the most serious violation of EPCRA 313. The ERP reflects this, as a failure to report for more than a year from the due date is a Circumstance 1 violation, regardless of whether the report could have been filed as a Form A annual certification (**CX 2-42; CX 46**, p.26). This approach is consistent with the intent behind the creation of Form A annual certification:

² When the Complaint in this case was filed, the single day maximum penalty for each violation was \$57,317, but that increase did not apply to violations occurring before November 2, 2015. (CX 46 ERP and 2016 and 2019 Civil Monetary Penalty Inflation Adjustment Rules)

EPA's determination on this issue in no way limits or affects its ability to bring enforcement actions against a facility. If a facility wishes to take advantage of the alternate threshold, then it must determine that its annual reportable amount did not exceed 500 pounds of the chemical for that year, it must file a certification statement, and it must keep appropriate records. Therefore, if the facility fails to submit either a certification statement or a Form R, the facility is a non-reporter and faces penalties up to \$25,000 per day per violation

CX 47 Federal Register, Volume 59 Issue 229, p. 24

Under the ERP, those reports that are more than a year late (classified as Circumstance Level 1) are considered more serious violations than those that are less than a year late (Classified as Circumstance Level 4) (**CX 2-42; CX 46**).

The ERP bases the extent level of a violation on the quantity of the chemical manufactured, processed or otherwise used by the facility, the size of the facility based on the number of employees at the facility, and the gross sales of the violating facility's total corporate entity (**CX 2-42; CX 46; CX 45 2015-12-01 Letter to D Riley with Sales and FTE Chart**)

The ERP classifies violations into three quantifiable extent levels:

In the first category are violations related to facilities that manufactured, processed, or otherwise used more than 10 times the legal threshold of the chemical, employed more than 50 employees, and where the total corporate entity had more than \$10 million in annual sales. In the penalty policy they are referred to as "Extent Level A" violations.

The second category is "Extent Level B" violations and includes those violations where the facility either:

- a) Processed, manufactured, or otherwise used more than 10 times the legal threshold of the chemical but did not have both more than \$10 million in annual sales for the total corporate entity and 50 employees at the facility; or
- b) Had more than \$10 million in annual sales for the total corporate entity and 50 employees at the facility, but did not process, manufacture or otherwise use more than 10 times the legal threshold of the chemical.

The third category is “Extent Level C” and includes those violations that do not rise to the level of severity of Extent Level A or B violations. Functionally, this means those violations where:

- a) The facility did not exceed the chemical threshold by 10 times, and
- b) Did not have both more than \$10 million in annual sales for the total corporate entity or more than 50 employees at the facility

Summary Classifications Table

Based on the standards and supporting documentation discussed above, Complainant believes the table on the following page accurately reflects the apparent extent and circumstance level of the violations based on the information now available in the supporting documentation and in the Joint Stipulations.

Please note there are significant differences in extent level classifications between this table and the tables in the Complaint based on information received from Thomas, and the ERP’s requirement to base some of the extent level classifications on data at the time the complaint is filed.

Extent Level A	Extent Level B	Extent Level C
<p>Circumstance Level 1</p> <p>Laredo: Counts 78, 80, 82, 83 Odessa: Counts 90-94, 98 Tyler: Count 117 Victoria: Counts 126, 127</p>	<p>Circumstance Level 1</p> <p>Damascus: Count 5 Broussard: Count 13 Bridgeport: Count 48 Hobbs: Counts 21, 23-27 La Grange: Counts 69, 70 Laredo: Counts 79, 81, 84-87 Odessa: Counts 95-97, 99 Robstown: Count 59 Tyler: Counts 115, 116, 118-121 Victoria: Counts 124, 125, 128-133</p>	<p>Circumstance Level 1</p> <p>Damascus: Counts 1-4, 6-9 Broussard: Counts 12, 14, 15 Baumont: Counts 30-37 Bridgeport: Counts 46, 47, 49-55 Hobbs: Counts 22, 28 La Grange: Counts 68, 71-76 Robstown: Counts 58, 60-66 San Benito: Counts 102-108</p>
<p>Circumstance Level 4</p> <p>Odessa: Count 100 [211 days],</p>	<p>Circumstance Level 4</p> <p>Broussard: Count 17 [119 days] Laredo: Count 88 [211 days] Tyler: Count 122 [94 days] Victoria: Count 134 [211 days]</p>	<p>Circumstance Level 4</p> <p>Damascus: Counts 10 [211 days], Broussard: Counts 16, 18-20 [119 days] Baumont: Counts 38-45 [118 days] Bridgeport: Counts 56 [211 days] San Benito: Counts 109-114 [119 days]</p>

The ERP also requires EPA to consider adjustments to the penalty based on the following criteria:

Ability to Pay and Ability to Continue to Do Business

Respondent has not alleged in its Answer or by other means any inability to pay a potential penalty or provided any financial documentation to Complainant on inability to pay. Similarly, Respondent has not provided any financial documentation to Complainant that paying a potential penalty may endanger its ability to continue to do business.

History of Prior Violations and the Degree of Culpability

Complainant is unaware of any prior violations as the term is defined in the ERP (“In order to constitute a prior violation, the prior violation must have resulted in a final order.”) Respondent did fail to file TRI notifications at these same facilities for the years before 2012 (CX 2-42).

EPA considers efforts to come into compliance once noncompliance with EPCRA § 313 is discovered. As stipulated, Thomas voluntarily filed TRI reports for its Damascus, Bridgeport, Hobbs, La Grange, Laredo, Odessa, Robstown, Tyler and Victoria facilities for calendar year 2013 on June 29, 2014 (Stipulations). Respondent did not file reports for previous years until contacted by EPA (CX 5, 6, 8-13 and applicable TRI Reports).

Complainant is unaware of any voluntary disclosures as the term is defined in the ERP.

Delisted Chemicals

Complainant is unaware of any delisted chemicals in this case.

Cooperation and Compliance

Complainant considers the cooperation given to EPA throughout the compliance evaluation and enforcement process when formulating a penalty (CX 46). Thomas was not initially well prepared when contacted about the Tyler Facility (CX 2 and 3) but was cooperative

and responsive and provided records and answers to EPA's questions leading up to the inspection (CX 4,5 and 7-13). All the information requested by EPA inspector Larry Stranne for the inspection was available during the inspection (CX 6).

As stipulated by the Parties, Thomas assisted EPA in its investigation and audit, and has provided documentation to EPA.

Complainant also considers Thomas's good-faith efforts to comply with EPCRA, and the speed and completeness with which it comes into compliance (CX 46). As stipulated by the Parties, after it was contacted by EPA, Thomas promptly filed TRI reports for prior years (*Stipulations*). Prior to being contacted by EPA, Thomas did not file TRI reports for prior years (CX 5, 6, 8-13 and applicable TRI Reports).

Other Factors as Justice May Require

Complainant also considers other issues that might arise on a case-by-case basis which should be considered when assessing penalties (CX 46). The ERP lists "factors which are relevant to EPCRA §313 violations include but are not limited to: new ownership or history of prior violations, "significant-minor" borderline violations, and lack of control over the violation."

In such a situation, the ERP states that a reduction of up to 25% off the gravity-based penalty may be allowed and that "[u]se of this reduction is expected to be rare and the circumstances justifying its use must be thoroughly documented in the case file."

Reservation

Along with a statement of the proposed penalty, Complainant will file a detailed explanation of the factors considered and methodology utilized in calculating the amount of the proposed penalty in its Rebuttal Hearing Exchange. As such, Complainant reserves the right to modify any information contained in this section and to supplement with additional supporting

documentation as appropriate. Complainant may modify its analysis under any of the preceding factors based on information provided by Thomas in its Prehearing Exchange.

E. EPA Guidance Documents and/or Policies, Including any Updates or Revisions to Such Guidance and/or Policies, and any Preambles to Regulations that Complainant has Relied Upon With Regard to the Allegations Set Forth in the Complaint.

- (a) 40 CFR Part 372, Alternate Threshold, 94 FR 29377, Volume 59 Issue 229 (November 30, 1994) (CX 47)
- (b) Electronic Reporting of Toxics Release Data, 78 Fed. Reg. 52860- 52868 (August 27, 2013) (CX 50)
- (c) Toxic Chemical Release Inventory Reporting Forms and Instructions for Reporting Year 2012 https://ofmpub.epa.gov/apex/guideme_ext/guideme_ext/guideme/file/ry_2012_rfi.pdf
- (d) Toxic Chemical Release Inventory Reporting Forms and Instructions for Reporting Year 2013 https://ofmpub.epa.gov/apex/guideme_ext/guideme_ext/guideme/file/ry_2013_rfi.pdf
- (e) EPCRA Section 313 Questions and Answers Revised 1998
<https://www.epa.gov/sites/production/files/documents/1998qa.pdf>
- (f) Toxics Release Inventory (TRI) Reporting for Facilities Located in Indian Country and Clarification of Additional Opportunities Available to Tribal Governments Under the TRI Program, 77 FR 23409-23419 (April 19, 2012)
<https://www.govinfo.gov/content/pkg/FR-2012-04-19/pdf/2012-9442.pdf>
- (g) Delegation R6-22-3-B. EPCRA Enforcement Representation in Hearing and Negotiations (12/14/15) (CX 51)
- (h) Delegation R6-22-3-A. EPCRA Administrative Enforcement Actions (12/14/15) (CX 52)

RESERVATION OF RIGHTS

Complainant respectfully reserves the right to call all witnesses called by the Respondent; to recall any of its witnesses in rebuttal; and to modify or supplement the names of witnesses and exhibits prior to the Adjudicatory Hearing in response to Respondent's Prehearing Exchange, or pursuant to 40 C.F.R. Part 22, and upon adequate notice to the Respondent and the Presiding Officer.

DATED: February 18, 2020

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 6



James Murdock
Office of Regional Counsel
U.S. EPA Region 6 | FOIA Branch
1201 Elm Street, Suite 500
Dallas, Texas, 75270-2102 (ORC-DF)
(214) 665-7302
Email: murdock.james@EPA.gov
ATTORNEY FOR COMPLAINANT

Certificate of Service
Attachments A, B, C, and D
Complainant's Exhibits

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of February 2020, the foregoing Initial Prehearing Exchange and its accompanying attachments were sent this day by the following means:



Electronic Filing

Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Electronic Mail

Ragna Henrichs
Ashley P. Prieto
Porter Hedges LLP
1000 Main Street
Suite 3600
Houston, TX 77002
Email: rhenrichs@porterhedges.com
Email: aprieto@porterhedges.com
Attorneys for Respondents

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

February 14, 2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7015 1520 0003 3990 9392

Ragna Henrichs
Porter Hedges
1100 Main Street, 36th Floor
Houston, Texas 77002

Re: In the Matter of Thomas Petroleum LLC Docket No. EPCRA-06-2019-0501

Dear Ms. Henrichs:

Enclosed is a Complaint and Notice of Opportunity for Hearing ("Complaint") issued to Thomas Petroleum, LLC, for violations of Section 313 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11023, and related regulations.

You have the right to request a hearing regarding the violations alleged in the Complaint as stated in Section V of the Complaint entitled "Notice of Opportunity to Request a Hearing."

If you have any questions regarding this Complaint, please contact the attorney by phone at (214) 665-7302 or by email at Murdock.James@epa.gov.

Sincerely,

[Handwritten signature]

Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

7015 1520 0003 3990 9392

U.S. Postal Service CERTIFIED MAIL RECEIPT
Domestic Mail Only
For delivery information, visit our website at www.usps.com
OFFICIAL USE
Certified Mail Fee
Extra Services & Fees (check box, add fee as appropriate)
Return Receipt (hardcopy)
Return Receipt (electronic)
Certified Mail Restricted Delivery
Adult Signature Required
Adult Signature Restricted Delivery
Postage
Total Postage and Fees
Sent To: Ragna Henrichs
Street and Apt. No., or PO Box No.
City, State, ZIP+4
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Attachment A

ALERT: USPS WILL BE TEMPORARILY SUSPENDING THE GUARANTEE ON PRIORITY MAIL...



FAQs

Track Another Package +

Tracking Number: 70151520000339909392

Remove

Your item has been delivered to an agent at 1:33 pm on February 20, 2019 in HOUSTON, TX 77002.

Delivered

Feedback

February 20, 2019 at 1:33 pm
Delivered, To Agent
HOUSTON, TX 77002

Tracking History

February 20, 2019, 1:33 pm

Delivered, To Agent
HOUSTON, TX 77002

Your item has been delivered to an agent at 1:33 pm on February 20, 2019 in HOUSTON, TX 77002.

February 19, 2019, 1:22 pm

Available for Pickup
HOUSTON, TX 77002

February 19, 2019, 1:16 pm

Arrived at Unit
HOUSTON, TX 77202

Attachment A

February 16, 2019, 2:44 am
Departed USPS Regional Facility
NORTH HOUSTON TX DISTRIBUTION CENTER

February 15, 2019, 11:55 am
Arrived at USPS Regional Facility
NORTH HOUSTON TX DISTRIBUTION CENTER

February 14, 2019, 11:48 pm
Arrived at USPS Regional Facility
COPPELL TX DISTRIBUTION CENTER

Product Information

Postal Product:

Features:
Certified Mail™

Feedback

[See Less](#)

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

[FAQs](#)

David Riley

EMPLOYMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Inspector/Enforcement Officer (40 hrs./wk.), Multimedia Planning & Permitting Division, Enforcement & Compliance Assurance Division - April 2008 through present

- Conduct inspections and develop enforcement cases pursuant to § 313 of the Emergency Planning & Community Right-To-Know Act (EPCRA § 313)
- Review EPCRA § 313 voluntary disclosures submitted by industry under the Audit Policy.
- Provide EPCRA § 313 compliance assistance to industry.
- Conduct inspections and develop enforcement cases pursuant to the core sections of the Toxic Substances Control Act (Core TSCA)

Indoor Air Coordinator (Detail, 40 hrs./wk.), Multimedia Planning & Permitting Division - April 2007 through March 2008

- Work with States, local and community agencies, and organizations to implement indoor air initiatives.
- Devise, promote, and implement indoor air strategies and activities.
- Assist industry and the public with indoor air pollution issues.

Human Health Risk Assessor (40 hrs./wk.), Compliance Assurance & Enforcement Division - October 2005 through March 2007

- Provide technical support for human health risk assessment.
- Review and comment on risk documents submitted by contractors and responsible parties.
- Communicate with State and Federal agencies to ensure transparency on risk-related decisions.

Human Health Risk Assessor (40 hrs./wk.), Superfund Division - February 1997 through September 2005

- Provide technical support for human health risk assessment.
- Review and comment on risk documents submitted by contractors and responsible parties.
- Communicate risk issues to the public.

ADDITIONAL EXPERIENCE

Pharmaceutical and food/beverage process validation, industrial microbiology, immunology research

Attachment B

EDUCATION

Fall 1992 - Fall 1994

TEXAS TECH UNIVERSITY

M.S., Microbiology - December, 1994

Fall 1988 - Spring 1992

TEXAS TECH UNIVERSITY

B.S., Microbiology - May, 1992 (Cum Laude)

Biological Sciences Honor Graduate

MORTON E. WAKELAND, JR. (“Mort”)

EDUCATION:

Ph.D., University of Connecticut, 1979, Geology (emphasis in nearshore marine sedimentation)

M.A., University of North Texas, 2019, Professional & Technical Communication

M.S., Southern Methodist University, 1995, Environmental Science and Engineering

M.S., University of Wisconsin, 1973, Oceanography & Limnology (first M.S. awarded at Wisconsin

B.S., East Tennessee State University, 1970, Geology with minor in Mathematics

MILITARY SERVICE:

U.S. Army, Combat Infantry Sergeant, Vietnam, Awarded Bronze Star and Combat Infantryman's Badge.

EXPERIENCE:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Dallas, TX

February 1993 to present

EPCRA 313 Enforcement & TRI Program Coordinator: GS 1301 13/10 September 28, 1997 to Present) 40 hrs/wk; (GS 1301 12/10 (October 13, 1996 to September 28, 1997), 40 hrs/wk; GS 1301 13/6 (September 28, 1997 to September 26, 1999), 40 hrs/wk; GS 1301 13/7 (September 26, 1999 to September 22, 2002), 40 hrs/wk; GS 1301 13/8 (September 22, 2002 to September 18, 2005), 40 hrs/wk; GS 1301 13/9 (September 18, 2005 to September 14, 2008), 40 hrs/wk; GS 1301 13/10 (September 14, 2008 to present), 40 hrs/wk:

- Coordinator and “quasi” Team Leader for the EPCRA § 313 enforcement and Toxic Release Inventory (TRI) programs since 1996. Provided guidance and direction to subordinates for inspection targeting, compliance evaluation, penalty assessment, negotiations, and settlement.
- Brought Region 6’s TRI Enforcement Program from obscurity to a leader among all other EPA Regions. Only Region to successfully issue and settle a TRI case under the National Mineral Initiative (originally developed for the RCRA enforcement program).
- Acted in a scientific advisory capacity to OECA regarding complex interpretational issues, e.g., discrepancy in ammonia releases reported to TRI vs the National Emissions Inventory.
- Served as the expert TRI witness in an EPCRA § 313 case that went to Hearing.
- Member of the TRI Program’s Interpretational Workgroup to resolve complex regulatory questions that arise during case development and settlement.
- Consulted with Region 6’s Senior Energy Advisor regarding the feasibility of adding oil & gas

Attachment C

drilling activities to Section 313 of EPCRA.

- Have met yearly ASC commitments since becoming the EPCRA 313/TRI Coordinator.
- Developed time saving worksheets for all 10 EPA Regions showing the most recent 5-year reporting history for all facilities in each EPA Region. Non-reporters and late reporters could easily be identified by color codes.
- Presented keynote addresses before organizations such as the American Petroleum Institute, the Texas Grain and Feed Association, as well as local environmental groups, e.g., Air and Waste Management Association, and Society of Environmental Professionals.
- Mentor and advisor to junior TRI Program personnel as well as EPCRA § 313 Enforcement personnel.

Geologist, Section 404 CWA: GS 0028 11/10 (September 30, 1995 to October 13, 1996), 40 hrs/wk:

- Reviewed technical merits of permits for dredge and fill operations in "waters of the United States" and conveying such comments to the U.S. Army Corps of Engineers, Fort Worth.
- Provided technical direction to personnel of oil companies in determining fresh water zones utilizing "Archie's" equation with an unconsolidated sediment formation factor (F).
- Participated on various committees for diverse environmental issues related to marine, wetland, and coastal communities. Gulf of Mexico report was reviewed for technical soundness and completeness.
- Provided geological expertise in "wetlands" determinations. Soils of a particular color schemes and texture are utilized for such determinations.

Solid Waste Team Leader: GS 1350 11/10 (April 16, 1995 to September 30, 1995), 40 hrs/wk:

- Recruited to Team Leader position for Solid Waste (Subtitle D of RCRA).
- Supervised 6 staff.
- Coordinated Region 6's efforts in responding to revisions in regulations for alternatives to ground water monitoring for small, dry, or remote landfills.

RCRA Enforcement Officer: GS 1350 11/10 (February 7, 1993 to April 16, 1995), 40 hrs/wk:

- Responsible for critically reviewing hydrogeological and subsurface geological information from regulated facilities to determine the necessity for, and feasibility of corrective action.
- Developed corrective action orders under the guidance of §3008(h) authority.
- Represented the U.S. EPA for the Department of Justice as principal scientist of hydrogeology and environmental science information for a referred case.
- Utilized the WHPA (Well Head Protection Areas) model to assess extent of capture zones from

Attachment C

remediation wells in several sites in Louisiana.

- Represented the RCRA Enforcement Program on the Ground Water Advisory Board.

CONSOLIDATED PETROLEUM GEOLOGY EXPERIENCE 1977 to February 1993

Numerous positions were held during my tenure in the "oil patch." For readability, these assets have been summarized below. In chronological order, I began with Amoco Production, New Orleans, LA, in 1977; then moved onto Grace Petroleum in Jackson, MS in 1980; Callon Petroleum in 1981; Texas Oil & Gas, Dallas, TX, in 1983; Murphy Petroleum, El Dorado, AR, in 1985; and finally U.S. Companies, in Dallas, TX, in 1987. In the summer of 1992, a concerted effort was made to transfer "oil patch" jargon into environmental expertise. This was accomplished after successfully completing Oklahoma State University's summer program in Practical Approaches to Ground-Water Hydrology and Contamination on August 21, 1992.

- Utilized extensive knowledge in petrophysical well log analysis to discover the shallow(~1200 feet) Miocene gas play near Foley, AL, and the deeper Wilcox trend near Baton Rouge, LA.
- Supervised "well-logging runs" throughout the Gulf Coast, picked surface casing points for fresh water protection, selected zones for shooting side-wall cores, and picked whole coring point intervals as the on-site "company" representative.
- Provided petroleum engineers with subsurface geological and well log information for the purpose of underground injection of produced brine.
- Gathered, evaluated, and completed two exhaustive overviews of the economic, geological, and engineering potential for oil and gas of the Arkoma and Michigan Basins. New exploration offices were opened in these basins due to results of study.
- Calculated the economic feasibility of purchasing oil and gas prospects generated by non-company personnel.
- Supervised and managed a \$2MM acreage purchase in the Wind River Basin in Wyoming.

ADDITIONAL EDUCATION (APART FROM FORMAL TRANSCRIPTS):

Petroleum Related:

Amoco's Introduction to Petroleum Exploration, Evaluation of Drilling and Testing Data
Amoco's Subsurface Rock Studies, Well-Log Interpretation Fundamentals, and Exploration

Attachment C

Geophysics

Advanced Schlumberger Open-Hole and Cased-Hole Log Interpretation
Doug Hilchie's Basic and Advanced Ole E-Log Interpretation Courses
Fundamental of Core Analysis
Subsurface Exploration Stratigraphy
Characterizing Formations with Well Tests
Petrophysics of Sandstone Reservoirs

Environment Related:

40-OSHA Certification - yearly updates since 1993
Hydrogeology and Contamination Summer Program - Oklahoma State University
Improving Scientific Writing Skills
Being an Expert Witness
Habitat Evaluation Fluvial Geomorphology Introduction to Utilizing GIS
Numerical Modeling of Pollutant Transfer in Estuaries, University of Mississippi Graduate
Engineering Program
Hydric Soils Identification for Wetland Delineation
Groundwater Hydrology by Ada Lab

Management Related:

Combat Infantryman's Leadership School, Fort Benning, GA.
TXO's First Line Management Training
UTA - Management Course
SMU - Project Management
EPA – Successfully Completed EPA's Leadership Development Program, August 2010

Attachment D

Juan Carlos Parra
Day Phone: (202) 566-0499 - Ext:
Email: parra.juan@epa.gov

Availability: **Job Type:** Permanent
Work Schedule: Full-Time

Work Experience:	Environmental Protection Agency/ Toxics Release Inventory Pr Washington, DC United States	Grade: GS13
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07/2009 - Present

Hours per week: 40

TRI-MEweb Project Lead (This is a federal job)

Duties, Accomplishments and Related Skills:

TRI-MEweb Project Lead: As the project lead for TRI's Made Easy Web application, I am responsible of overseeing the development, deployment and release into the production environment of TRI's electronic reporting tool called TRI-MEweb. The annual release of the TRI is done in January to meet the reporting deadline of July 1. TRI-MEweb collects chemical release data reported under EPCRA Section 313 from over 25,000 U.S. facilities. I provided oversight of a subtask under the CDX contract that meet strict performance requirements for our web-based application. I coordinate and evaluated all design requirement documents and make final design changes on all technical aspects of the application. I also oversaw budget and track expenditures from the contractor. I have never under budgeted my project.

I have been able to transition over 68% of our users in 2008 to report electronically to TRI in 2014. TRI-MEweb is now the sole electronic reporting tool to submit data to TRI and is a model for other EPA data collection systems to meet eEnterprise objectives.

TRI-MEweb security IT project officer: I oversaw work to prepare C&A security documentation that support three TRI IT information systems (i.e., TRI-MEweb, Trade Secret and TRIPS). I updated information in eCPIC and READ IT systems for TRI-MEweb application. I reviewed controls and entries in Telos Exacta on TRI-MEweb to make sure it met FISMA standards.

Mayor milestones:

- 1.- In 2017, TRI-MEweb application was modernized to use web services to improve data collected. I oversaw requirements identification, development and implementation of changes.
- 2.- In 2014, I integrated the technical requirements of the Electronic Reporting Final Rule into TRIMEweb that would digitize 100% all data flows that go into our TRIPS database.
- 3.- In 2013, I consolidated all processing functionality (preparing, transmitting and certifying processes) into the reporting tool. Starting in 2013, reporting facilities can now prepare, transmit, certify, and submit their TRI data without leaving the application. This consolidation help incorporate new CDX services like ESA approval through LexisNexis.
- 4.- I worked with my sister organization to identify data quality issues that could be addressed in the front end of the application during the last four years. This effort has resulted in a reduction of over 90% in the number of revisions to TRI data because of the reduced incidence of errors in TRI data sent to EPA. I also assisted in defining requirements for how TRI-MEweb collects Pollution Prevention data, which resulted in a ten-time increment in reporting year 2013 from previous year.
- 5.- Made the determination to support Web logic operating system over JBOSS during RY2008 season. Did not experience any catastrophic failures given limitations of Web logic.
6. Took over RY2009 development in July 2009. Implemented Third Party Load, FRS query tool. In April 2010, I implemented several admin enhancements, and a Parent Company search tool.
- 7.- In 2011, I introduced over 180 individual enhancement to our TRI-MEweb reporting tool.

TRI Data Processing Center (DPC) backup: I served as the TRI DPC backup coordinator. I helped provide oversight of deliverables, requested special data queries, and provided technical assistance in drafting plans for future development.

Attachment D

TRI web development project lead: I took over control of web content management in 2008. In four years, our TRI website has become an Agency model of use of web standards and use of template. The TRI web pages are being considered as a ONE EPA microsite because of the heighten value of our information. Website hits in 2008 numbered only around 2,000 during the three month peak season (July). In contrast, since I began managing web content for TRI, in 2012, we had over 25,000 hits in just the last two weeks of July.

Awards: I have obtained numerous monetary/time-off awards for enhancements to TRI-MEweb. I also was recognized for providing excellent customer service during peak season to facilities. I was awarded a bronze medal for my work in implementing the Electronic Reporting Rule.

Supervisor: Julie Kocher ((202) 566-0710)

Okay to contact this Supervisor: Yes

USEPA/OEI/OIC
1200 Pennsylvania Ave
Washington DC, DC 20460 United States

09/2013 - 12/2013

Hours per week: 40

Temporary Detail-IT specialist

Duties, Accomplishments and Related Skills:

I was assigned a temporary duty to support the eDiscovery program to map their IT architecture which resulted in a 70% cost savings due to a consolidated IT system. I also helped deploy an application (IPRO) at the NCC that would be used to collect data to support legal discovery procedures.

Environmental Protection Agency/ Toxics Release Inventory Pr
Washington, DC United States

Series:

0819

Pay

Plan:

GS

Grade:

13

01/2008 - 02/2010

Salary: 100,000.00 USD Per Year

Hours per week: 40

State Data Exchange Coordinator (This is a federal job)

Duties, Accomplishments and Related Skills:

I took over the duties of the State Data Exchange in July 2008. TRI data that is collected from chemical releases by industry on an annual basis is sent to States via the State Data Exchange. I was the main point of contact to all TRI member states to ensure that any missing data was delivered to state nodes. I also recruited states into joining the State Data Exchange- 5 new States joined during my term for a grand total of 24 member states.

SDX backup: I continue serving as the SDX backup. I provide consulting services to new POC. I made sure transition of my functions to new POC was thorough.

Awards: I have received monetary awards for achievements with SDX.

US Environmental Protection Agency/ Analysis and Information
Washington, DC United States

01/2007 - 12/2007

Hours per week: 30

GIS/Map Developer

Duties, Accomplishments and Related Skills:

As a member on the National Trends Report Team, I introduced the use maps using GIS data extracted from TRI databases in the 2007 National Trends Report. These maps illustrated the extent to which PC quantities have increased or decreased over time at RCRA facilities. I highlighted waste management trends at the EPA regions and states level and mapped the industry sectors that generate/manage these chemicals.

US Environmental Protection Agency/ Office of Solid Waste
Arlington, VA United States

Series: 0819

Pay Plan: GS

Grade: 13

Attachment D

08/1998 - 12/2007

Hours per week: 40

Environmental Engineer (This is a federal job)

Duties, Accomplishments and Related Skills:

As an environmental engineer, I analyzed complex regulatory and technical issues related to waste disposal of regulated hazardous chemicals. Tracked overall project status and schedule, and tracked resources related to policy issues that span the Land Disposal Restrictions (LDR) Program, the Hazardous Waste Combustion (HWC) Program and their interaction with other environmental programs and initiatives.

•Surface Impound Study (2000): I worked on a report to Congress to identify any potential regulatory gaps regarding the management of hazardous waste in surface impoundments. I created a database to track facilities with permitted surface impoundments in the US that helped determine which industrial sector had the greatest risk of releases. I received an award for this project.

•Selenium Treatment Variance: I researched, negotiated and drafted proposed/direct final rules in the Federal Register to grant two treatment standard variances for a glass manufacturing hazardous waste that contained selenium (70 FR 44505, August 3, 2005).

•Mercury Waste Web site: I developed an Agency web site that consolidated mercury waste programs in OSW that address waste management issues regarding manufactured products containing mercury. I also developed the Agency's web site to address mercury spills. I took part in establishing the first round of Agency web guidelines.

<http://www.epa.gov/epaoswer/hazwaste/mercury/index.htm>

•DOE Macroencapsulation DET: I was the project leader to review a petition from DOE that would allow use of container-based macro encapsulation technologies that meet specified performance standards as a treatment technology for radioactively contaminated lead solid wastes. I coordinated with DOE and EPA regions to determine whether or not a rulemaking would address this waste management issue. As a result of our discussions, EPA determine that a rulemaking was not needed given recent technology developments of a treatment technology in Utah that met LDR requirements for this waste type.

Supervisor: Hugh Davis (7033060206)

Okay to contact this Supervisor: Yes

US Environmental Protection Agency

Baton Rouge, LA United States

09/2005 - 10/2005

Hours per week: 100

Community Involvement Coordinator

Duties, Accomplishments and Related Skills:

I served as a community involvement coordinator during recovery operations after the Katrina hurricane struck Louisiana. I coordinated with local officials in five parishes to get them environmental information on issues that were impacting their community like lead and mold. I also translated EPA documents into Spanish to expand outreach to Hispanic communities impacted by the storm.

Award: I received a bronze medal for work performed during Katrina operations.

US EPA Environmental Technology Verification Program

Washington, DC United States

06/1999 - 12/1999

Hours per week: 40

Environmental Engineer

Duties, Accomplishments and Related Skills:

On a temporary assignment as an EPA 1998 Career Development Candidate, I assisted the program director in efforts to promote EPA's Environmental Technology Verification (ETV) Program in Mexico. My other duties included communicating ETV program updates to 12 other pilot managers, coordinating partnership meetings and researching their technology needs.

US EPA Region 3: Federal Facility Division

Philadelphia, PA United States

Attachment D

03/1999 - 06/1999

Hours per week: 40

Environmental Engineer

Duties, Accomplishments and Related Skills:

On a temporary assignment as an EPA 1998 Career Development Candidate, I was involved with CERCLA program for Federal facilities in EPA Region 3. Some of my responsibilities included collecting site data for a Federal facility database, reviewing Federal Facility Agreements and updating CERCLIS data files. I also participated in preparing briefings for several remediation management efforts at the Philadelphia Naval Shipyard, St Helena Annex, and the marine base at Quantico, VA.

Syracuse University

Syracuse, NY United States

06/1997 - 08/1998

Hours per week: 20

Teacher Assistant

Duties, Accomplishments and Related Skills:

I was a teacher assistant in the Civil Engineering department at Syracuse University. I taught a Soils Lab course to undergraduates students. I was in charge of maintaining, preparing lab materials and teaching the geotechnical concepts. I also prepared soil samples, set-up equipment and calibrated measuring instruments to be used in specific lab exercises. My Master's project was a comprehensive study of the use of geotextiles in different civil engineering applications.

US Army

Fort Drum, NY United States

**Pay
Plan:
Other**

02/1992 - 02/1995

Hours per week: 60

Radar Operator (This is a federal job)

Duties, Accomplishments and Related Skills:

As a radar operator for a fire finder radar unit for the 10th Mountain Light Infantry Division at Fort Drum, New York, I had a security clearance to manage sensitive material needed to operate the radar. I performed operational and maintenance tasks on the equipment. I participated in operations in Somalia and Haiti with my unit. I received an Army Commendation Medal for my performance.

I also participated in recovery efforts during Hurricane Andrew where I provided radio communications and translated directions to Hispanic community members.

Education:

Syracuse University Syracuse, NY United States

Master's Degree 06/2005

GPA: 3.7 of a maximum 4

Major: Civil Engineering

Relevant Coursework, Licenses and Certifications:

Geotechnical Engineering course, Aquatic Chemistry, Foundations I and II, dam design, Soils Dynamics laboratory, Industrial Waste Management Systems, and Environmental Policy

NY University College of Environmental Science and Forestry Syracuse, NY United States

Bachelor's Degree 06/1997

GPA: 3.4 of a maximum 4

Major: Natural Resource Engineering

**Job Related
Training:**

Extensive computer training in C++, EXCEL, MS WORD, ACCESS, Dreamweaver, MS PROJECT, ARCVIEW, JavaScript, and MS PowerPoint.

Security IT manager for TRI-MEweb- Telos Exacta, eCPIC, and READ. Responsible to coordinate C&A package for TRI data collection system.

Attachment D

Diversity Training -Special Emphasis Program Manager for OEI

U.S. Army: Radar Operator Training Course, Fort Sill Oklahoma
February 1992- February 1995

Language Skills:	Language	Spoken	Written	Read
	Spanish	Advanced	Advanced	Advanced

Affiliations: Society of Hispanic Professional Engineers - Member
National Hispanic Environmental Council - Member
American Society of Civil Engineering - Member

Professional Publications: TRI-MEweb application- hosted on CDX server at NCC.

Land Disposal Restrictions: Site-Specific Treatment Variance for Selenium Waste for Chemical Waste Management, Chemical Services LLC
<http://www.epa.gov/fedrgstr/EPA-WASTE/2004/November/Day-19/f25717.htm>

Land Disposal Restrictions: Site-Specific Treatment Variances for Heritage Environmental Services LLC and Chemical Waste Management Inc.
<http://www.epa.gov/fedrgstr/EPA-WASTE/2004/February/Day-11/f2820.htm>

References:	Name	Employer	Title	Phone	Email
	Kim Katonica-Mule (*)	US environmental Protection Agency	Geologist	(703) 308-6087	katonica.kim@epa.gov
	Zachary Scott (*)	US Environmental Protection Agency	Environmental Protection Specialist	(202) 566-0953	scott.zachary@epa.gov
	Tim Antisdel (*)	US Environmental Protection Agency	Database Administrator	202-566-0733	antisdel.timothy@epa.gov

(*) Indicates professional reference

Additional Information: Collateral Duty:

US EPA OEI Hispanic employment Program Manager 2009-2011

As the Office of Environmental Information Hispanic Employment Program manager, I helped coordinate our Unity Day activities. I have also participated in a Workforce Development initiative to evaluate the workplace in OEI.

US EPA OSWER Hispanic employment Program Manager 2001-2005

As the OSWER Hispanic Employment Program Manager, I have worked with senior management to provide guidance, direction and assistance in implementing an Equal Opportunity program that assures that the special contributions, talent and diversity of Hispanic Americans are valued and represented in OSWER. I have attended many OSWER and national recruiting events that target Hispanics. I have supported EPA's intern program activities, such as the Presidential Management Interns and EPA Intern Program, and I regularly meet with applicants and interns. As a result, OSWER has significantly benefited from his commitment with over 16 permanent hires from the EPA Intern Program since 1998. I have regularly informed OSWER managers and staff of needs and concerns from their Hispanic employees. In addition, I have served on the expert panel reviewing Spanish-language documents that have provided the Hispanic Small Business community with information on how to manage properly their hazardous waste. I have also reported to OSWER on progress and successes in recruiting, employment and training of Hispanics to be included in EPA's annual report to Congress on Federal Equal Opportunity Programs.

- 2001 Hispanic Heritage Month Chairperson: I have served as Chair of the 2001 National

Attachment D

Hispanic Heritage Month Planning Committee. I was responsible, in coordination with the Office of Civil Rights (OCR), for planning and overseeing implementation of the Hispanic Heritage events, including soliciting and hosting guest speakers and holding a National all-day kick-off event.

- National Hispanic Environmental Council 1999-2005

I have also worked to strengthen EPA's community partnerships, a pillar of EPA's Hispanic Outreach Strategy, with non-profit organizations like the National Environmental Council (NHEC) to encourage Hispanics to actively work to preserve and protect our environment and to seek job opportunities in civil service.

- EPA Spanish Portal: <http://www.epa.gov/espanol/>

I am a team member that is maintaining the Agency's Spanish portal. I am providing in addition to my Spanish skills, my technical expertise to display environmental information for the Hispanic community.

Achievements

- EPA National EEO Diversity Award
- EPA Bronze Metal for work on the EPA Mercury Portal (www.epa.gov/mercury)
- OSWER Diversity Award 2002

I received this EPA Diversity Award my effort to advance the Agency's effort to improve its diversity in the workforce.

Wakeland, Morton

From: Wakeland, Morton
Sent: Thursday, September 4, 2014 4:59 PM
To: MZETTLEMOYER@CLTHOMAS.COM
Subject: TRI Facility Locational Information

CLARIFYING YOUR FACILITY'S LOCATIONAL INFORMATION

September 4, 2014

Dear TRI Reporter:

The EPA is trying to resolve locational information for a number of facilities in the main Facility Registry System (FRS) database. For one reason or the other, your facility has been identified as either having no locational information, or that it may not meet the accuracy requirements of the Agency.

Please acknowledge receipt of this email immediately and that you understand what is being asked of you. This is not a time intensive request and should be able to be accomplished within a week of receipt. The information to be provided to EPA is described below.

You are receiving this information request because you are listed as the technical contact on your facility's TRI (Toxic Release Inventory) reporting forms:

Facility technical contact name: [MEGAN ZETTLEMOYER]
Facility name: [THOMAS PETROLEUM LLC TYLER]
Address: [1510 N NE LOOP 323]
City: [TYLER]
State: [TX]
Facility TRI ID number: [7570WTHMSP151NR]

PLEASE NOTE: If you receive more than one of these emails, reference the TRI ID number, for it will specify the exact facility this email pertains to, even though the facility name may be exactly the same. TRI ID numbers are unique to each facility location.

For purposes of TRI reporting, the preferred coordinates (latitude and longitude) for your facility is the *center of the facility*. The *center of the facility* should be considered the *approximate* center of the process buildings and equipment. It is permissible to *eyeball* the *center of the facility*. Do not include vacant land in your determination. If you have any questions regarding the determination of your *center of facility* please feel free to contact me by phone (214.665.8116) or by email (wakeland.morton@epa.gov).

If you or your facility is in possession of a GPS (Global Positioning System) and the perceived location of the *center of facility* is such that the GPS can receive satellite signals for the location, then by all means use the GPS. On the other hand, if you or the facility do not have a GPS, you are unable to locate and utilize one, or the perceived *center of facility* is within a building, where satellite signals cannot be received by the GPS, then utilize the Internet, e.g., Google Maps. There are any number of websites devoted to finding latitude and longitude of a point on the surface of the Earth (www.latlong.net). Again, if you would like assistance in finding your latitude and longitude, please feel free to contact me.

If you are unfamiliar with the concept of latitude and longitude you may wish to read the introductory information on the following websites:

<http://www.learner.org/jnorth/tm/LongitudeIntro.html>

http://www.maptools.com/tutorials/lat_lon

EPA is requesting that you provide the following information:

- The latitude and longitude of the *center of the facility*. You may provide the latitude and longitude in either in degrees/minutes/seconds (DD MM SS, or DMS, for example the center of downtown Dallas is 32° 46' 48.504" North Latitude and -96° 48' 1.623" West Longitude) or in decimal degrees (DD, for example the above converts to 32.78014° North Latitude and -96.800451° West Longitude).

- Provide an aerial photo (pdf) of your facility with its boundaries outlined, and a tick mark on the aerial indicating your *center of facility, i.e.*, from where you measured your latitude and longitude. These can be readily obtained from websites like Google Maps.
- Indicate how you determined your latitude and longitude, either by GPS, or website. Note, if you have documents specifying a latitude and longitude, plot these on a map to see if they are close to your *center of facility*. If they are not very close to the *center of facility*, do not use them.
- If determined by GPS, give the name and model of the GPS and its accuracy.
- If determined by website, give the name of the website and a link to the website.

Your cooperation in this matter is most appreciated.

Sincerely,
Mort Wakeland
EPCRA § 313 Enforcement and TRI Program
Coordinator
U.S. EPA Region 6
Dallas, TX
(214.665.8116)

Wakeland, Morton

From: Wakeland, Morton
Sent: Thursday, September 11, 2014 11:52 AM
To: Megan Zettlemoyer
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location
Importance: High

Thank you for your note.

I am presuming Thomas Petroleum has operated the facility for 2009, 2010, 2011, 2012, and 2013 since you gave no specific date of purchase.

The Tyler location has had more than 10 full time employees and in primary NAICS code 424710 for the above referenced years.

In order to utilize the Form A, a facility must meet both of 2 requirements:

1. The facility must not have used more than 10,000,000 pounds of the chemical in the calendar year in question, and
2. The facility must not have exceeded 500 pounds of releases in section 8.

You have presented no evidence to support your claim. You will have to substantiate for the chemicals you have reported on Form A that their releases for the 2013 calendar year were less than 500 pounds and the facility did not use more than 1,000,000 pounds.

NOTE: it is insufficient to simply say they were zero, you will have to support this interpretation with defensible evidence. If you have not such evidence you are in violation of 40 CFR 372.10.

Again provide your calculations that substantiate the values in Section 8 are not great than 500 lbs.

In addition, please explain why Thomas Petroleum did not report for calendar years 2009 – 2012.

You must give defensible proof of why Thomas Petroleum did not have to report for those years, yet began in 2013.

NOTE: Effective for the 1998 calendar year (62 Fed.Reg. 23834) facilities with a primary SIC code of 5171 came under the jurisdiction of EPCRA 313.

This SIC code equates to NAICS code 424710 per the Census Bureau's NAICS code concordance.

5171 Petroleum Bulk Stations and Terminals (except petroleum sold via retail method)

424710 Petroleum Bulk Stations and Terminals

Thanks for your cooperation in this matter.

Mort Wakeland

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemyer [mailto:MZettlemyer@CLTHOMAS.com]
Sent: Thursday, September 11, 2014 8:39 AM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Please see below:

IMPORTANT REGULATORY QUESTIONS:

How long has Thomas Petroleum operated the facility at 1510 N NE Loop 323, Tyler, Texas? Give the month/day/year in which operations first began.

If Thomas Petroleum operated this site in 2009, 2010, 2011, and 2012 please give for each year:

1. number of employees – if less than 10, then give the number of hours worked by all full-time, part time, and contract employees, also include the number of hours worked by anyone who supported the operations at the site, e.g., an accountant that does

the books at the site,
or the environmental person who insures the sites compliance with federal and state environmental laws. **Answer: Not less than 10 employees for the years specified above.**

2. Has the NAICS code always been 424710 for the above time period? If not what was it before and when was it changed to 424710? **Answer: Yes**

For each of the TRI chemicals that you filed on a Form A (see yellow highlights above), please indicated the amounts that were calculated in Section 8 (Sections 8.1 – 8.8). **Answer: The Form A was filled out for the yellow highlighted items, therefore I did not fill out Section 8. The Form R Section 8 were all zero or not applicable.**

Thank you,

Megan Zettle moyer

*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager*

Health, Safety and Environmental Department

C.L. Thomas, Inc.

C.L. Thomas, Inc.

Office: 361-573-8073

Cell: 361-212-7583

Fax: 361-580-9573

mzettle moyer@clthomas.com



From: Wakeland, Morton [<mailto:wakeland.morton@epa.gov>]

Sent: Thursday, September 11, 2014 7:11 AM

To: Megan Zettle moyer

Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Good Morning – received your messages. Thanks

I get in very early and as a result, leave around 3 in the afternoon.
Unfortunately I had already left yesterday.

Noonish today is fine Megan. Understand you may have to sift through some records to find various info.
However, most of this should already be in your TRI 2013 file.

Best, Mort

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemoyer [mailto:MZettlemoyer@CLTHOMAS.com]
Sent: Wednesday, September 10, 2014 3:45 PM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Yes, the image below is the correct facility.

I used a website called www.itouchmap.com to get the latitude and longitude.

I am working on getting you the other requested information. I will have it to you by tomorrow at noon. Does that work for you?

Thank you,

Megan Zettlemoyer
*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager
Health, Safety and Environmental Department
C.L. Thomas, Inc.*

Office: 361-573-8073
Cell: 361-212-7583
Fax: 361-580-9573
mzettlemoyer@clthomas.com



From: Wakeland, Morton [<mailto:wakeland.morton@epa.gov>]
Sent: Wednesday, September 10, 2014 3:23 PM
To: Megan Zettlemoyer
Subject: FW: Thomas Petroleum -- Tyler Warehouse -- Question on Location
Importance: High

I sent you the below message at 10:16 am this morning and have not heard anything back. It is now a lil after 3 pm.

If you do not have the information I requested please let me know immediately, and the let me know how long it will take you to provide that information. Otherwise I will contact Mike Meredith and request the information from him

Thanks for your cooperation.

Sincerely,
Mort Wakeland

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6

Dallas, Texas 75202
214.665.8116

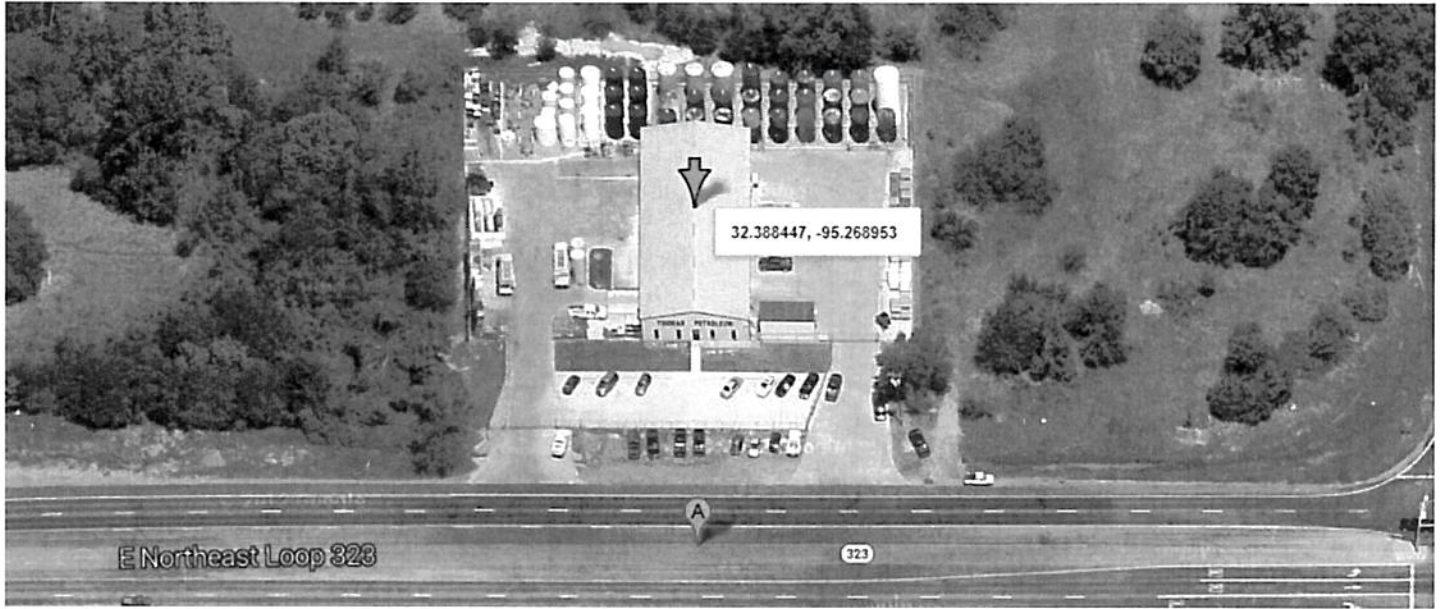
From: Wakeland, Morton
Sent: Wednesday, September 10, 2014 10:16 AM
To: 'Megan Zettlemyer'
Cc: Senthil, Velu; Smith, David G.
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Thanks Meg...

Remember my original instructions? Indicated to select "center of facility," you chose the parking lot. Again, I am curious as to where you came up with the location you originally sent me?



Keep the below location for your files...a more accurate location of your facility is shown below.



Do you attest to the fact the above imagery is:

List of EPA-Regulated Facilities in TRI

<u>TRI FACILITY ID</u>	<u>FACILITY INFORMATION</u>	<u>FACILITY NAME</u>	<u>ADDRESS</u>	<u>COUNTY NAME</u>	<u>SUBMIS</u>
7570WTHMSP151NR	View Facility Information	THOMAS PETROLEUM LLC TYLER	1510 N NE LOOP 323 TYLER, TX 75708	SMITH	

IMPORTANT REGULATORY QUESTIONS:

How long has Thomas Petroleum operated the facility at 1510 N NE Loop 323, Tyler, Texas? Give the month/day/year in which operations first began.

If Thomas Petroleum operated this site in 2009, 2010, 2011, and 2012 please give for each year:

1. number of employees – if less than 10, then give the number of hours worked by all full-time, part time, and contract employees, also include the number of hours worked by anyone who supported the operations at the site, e.g., an accountant that does the books at the site, or the environmental person who insures the sites compliance with federal and state environmental laws.
2. Has the NAICS code always been 424710 for the above time period? If not what was it before and when was it changed to 424710?

I am also going to ask you for some very pertinent TRI information that you should have in your files per EPCRA 313's record keeping requirements (40 CFR 372.10) you should be able to supply this information back to me in a relatively short period of time.

Your TRI reports for 2013 are:

<u>DOCUMENT CONTROL NUMBER</u>	<u>CHEMICAL NAME</u>	<u>FORM R STATUS</u>	<u>VALIDATED</u>	<u>FORM TYPE I</u>
<u>1313211593153</u>	1,2,4-TRIMETHYLBENZENE	Active Submission	Passed With No Errors	FORM
<u>1313211593165</u>	ETHYLENE GLYCOL	Active Submission	Passed With No Errors	FORM
<u>1313211593177</u>	METHANOL	Active Submission	Passed With No Errors	FORM
<u>1313211593189</u>	N-HEXANE	Active Submission	Passed With No Errors	FORM
<u>1313211593191</u>	POLYCYCLIC AROMATIC COMPOUNDS	Active Submission	Passed With No Errors	FORM
<u>1313211593203</u>	ZINC COMPOUNDS	Active Submission	Passed With No Errors	FORM

Total Number Of DCN's Found: 6

For each of the TRI chemicals that you filed on a Form A (see yellow highlights above), please indicated the amounts that were calculated in Section 8 (Sections 8.1 – 8.8).

SECTION 8. DISPOSAL OR OTHER RELEASES, SOURCE REDUCTION, AND RECYCLING ACTIVITIES				
	Column A Prior Year (pounds/year*)	Column B Current Reporting Year (pounds/year*)	Column C Following Year (pounds/year*)	Column D Second Following Year (pounds/year*)
8.1				
8.1a	Total on-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills	→		
8.1b	Total other on-site disposal or other releases	→		
8.1c	Total off-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills	→		
8.1d	Total other off-site disposal or other releases	→		
8.2	Quantity used for energy recovery on-site	→		
8.3	Quantity used for energy recovery off-site	→		
8.4	Quantity recycled on-site	→		
8.5	Quantity recycled off-site	→		
8.6	Quantity treated on-site	→		
8.7	Quantity treated off-site	→		
8.8	Quantity released to the environment as a result of remedial actions, catastrophic events, or one-time events not associated with production processes (pounds/year*)		→	
8.9	Production ratio or activity index			
8.10	Did your facility engage in any newly implemented source reduction activities for this chemical during the reporting year? If so, complete the following section; if not, check NA. NA <input type="checkbox"/>			
	Source Reduction Activities (Enter code(s))	Methods to Identify Activity (Enter code(s))		
8.10.1		a.	b.	c.
8.10.2		a.	b.	c.
8.10.3		a.	b.	c.
8.10.4		a.	b.	c.

EPA form 9350-1 (Rev. 10/2012) – Previous editions are obsolete.

*For Dioxin or Dioxin-like compounds, report in grams/year.

Thank you.

Best,
Mort

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemyer [<mailto:MZettlemyer@CLTHOMAS.com>]
Sent: Wednesday, September 10, 2014 8:17 AM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Ok, see if this information works.

Thank you,

Megan Zettlemyer
*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager
Health, Safety and Environmental Department
C.L. Thomas, Inc.*
Office: 361-573-8073
Cell: 361-212-7583
Fax: 361-580-9573
mzettlemyer@clthomas.com



From: Wakeland, Morton [<mailto:wakeland.morton@epa.gov>]
Sent: Wednesday, September 10, 2014 8:01 AM

To: Megan Zettlemoyer
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Yhea Meg!! Thanks.....

You can see now why we are looking at a number of facilities to confirm their location.
Thanks for helping....

Mort

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemoyer [<mailto:MZettlemoyer@CLTHOMAS.com>]
Sent: Wednesday, September 10, 2014 7:59 AM
To: Wakeland, Morton
Cc: Senthil, Velu; Smith, David G.
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

I spoke with our Regional HSE Manager who lives in Tyler. I have the information you need. I will send it shortly. Again, sorry for the confusion.

Megan Zettlemoyer
*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager
Health, Safety and Environmental Department
C.L. Thomas, Inc.
Office: 361-573-8073
Cell: 361-212-7583
Fax: 361-580-9573
mzettlemoyer@clthomas.com*



From: Wakeland, Morton [<mailto:wakeland.morton@epa.gov>]
Sent: Wednesday, September 10, 2014 7:28 AM
To: Megan Zettlemoyer
Cc: Senthil, Velu; Smith, David G.
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Yet a 3 location if you simply Google Thomas Petroleum, in Tyler Texas.

I will call the facility itself this morning. Surely the site personnel know where they are in Tyler for I assume they have to show up for work on a daily basis and therefore would have to know where the facility is!



Thomas Petroleum

[Directions](#)

[Be the first to review](#)

Address: 1510 N Northeast Loop 323, Tyler, TX 75708

Phone: (903) 592-6851

Reviews

[Be the first to review](#)

More reviews: reviewof.net, locationsandreviews.com,

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemoyer [<mailto:MZettlemoyer@CLTHOMAS.com>]
Sent: Tuesday, September 09, 2014 3:15 PM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

I know sorry I am confused too.

Megan Zettlemoyer

*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager
Health, Safety and Environmental Department
C.L. Thomas, Inc.
Office: 361-573-8073
Cell: 361-212-7583
Fax: 361-580-9573
mzettlemoyer@clthomas.com*



From: Wakeland, Morton [<mailto:wakeland.morton@epa.gov>]
Sent: Tuesday, September 09, 2014 3:14 PM
To: Megan Zettlemoyer
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Ahhhhh, thanks....

That's interesting.

Will wait for your aerial and lat & lon
Mort

**Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6**

Dallas, Texas 75202
214.665.8116

From: Megan Zettle-moyer [<mailto:MZettle-moyer@CLTHOMAS.com>]
Sent: Tuesday, September 09, 2014 2:49 PM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

No

Megan Zettle-moyer
*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager
Health, Safety and Environmental Department
C.L. Thomas, Inc.*
Office: 361-573-8073
Cell: 361-212-7583
Fax: 361-580-9573
mzettle-moyer@clthomas.com



From: Wakeland, Morton [<mailto:wakeland.morton@epa.gov>]
Sent: Tuesday, September 09, 2014 2:44 PM
To: Megan Zettle-moyer
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Was that the facility location????
Thanks much,
Mort

Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemoyer [mailto:MZettlemoyer@CLTHOMAS.com]
Sent: Tuesday, September 09, 2014 1:14 PM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

I understand why you are questioning where the facility is now. I am working on getting you another print out.

Megan Zettlemoyer
*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager
Health, Safety and Environmental Department*
C.L. Thomas, Inc.
Office: 361-573-8073
Cell: 361-212-7583
Fax: 361-580-9573
mzettlemoyer@clthomas.com



From: Wakeland, Morton [mailto:wakeland.morton@epa.gov]
Sent: Tuesday, September 09, 2014 12:39 PM
To: Megan Zettlemoyer
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Meg

The point you gave is in the middle of the street – see if what I have outlined on this aerial is your facility location.



Morton E. Wakeland, Jr., Ph.D. ("Mort")
EPCRA 313 Enforcement & TRI Program Coordinator
U.S. EPA Region 6
Dallas, Texas 75202
214.665.8116

From: Megan Zettlemyer [mailto:MZettlemyer@CLTHOMAS.com]
Sent: Tuesday, September 09, 2014 12:26 PM
To: Wakeland, Morton
Subject: Thomas Petroleum -- Tyler Warehouse -- Question on Location

Thank you,

Megan Zettlemyer
*Corporate Environmental Compliance Specialist/
Retail Regional HSE Manager*
Health, Safety and Environmental Department
C.L. Thomas, Inc.
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Wakeland, Morton

From: Megan Zettle-moyer <MZettle-moyer@CLTHOMAS.com>
Sent: Monday, September 15, 2014 1:57 PM
To: Wakeland, Morton
Subject: RE: Thomas Petroleum -- Tyler Warehouse -- Question on Location
Attachments: megzet09152014103246.pdf

Form A Question

Answer: Please see the attached TRI Spreadsheet to show why we used a Form A.

In addition, please explain why Thomas Petroleum did not report for calendar years 2009 - 2012.

Answer: Previous legal counsel advised that Thomas Petroleum did not meet reporting criteria for TRI for the years specified.

If you have any other questions, please let me know.

Thank you,

Megan Zettle-moyer
Corporate Environmental Compliance Specialist Retail Regional HSE Manager Health, Safety and
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