



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

DOCKET NO: RMP-20-ESA-003

**This ESA is issued to: City of Sault Ste. Marie Water Treatment Plant
at: 1634 West 24th Street, Sault Ste. Marie, Michigan 49783**

for violations of Section 112(r)(7) of the Clean Air Act. CAA-05-2020-0015

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and City of Sault Ste. Marie Water Treatment Plant ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a Complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Enforcement & Compliance Assurance Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) to the Regional Judicial Officer, Office of Regional Counsel, EPA Region 5.

ALLEGED VIOLATIONS

On November 9, 2016, an authorized EPA representative conducted a compliance inspection of the City of Sault Ste. Marie Water Treatment Plant ("Facility") to determine its compliance with the Risk Management Program ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. On October 18, 2018, EPA sent a Request for Information to the Facility to determine the status of compliance Based on the November 9, 2016 inspection and the February 25, 2019 response to the Request for Information, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.39(a): Respondent failed to maintain documentation on the offsite consequence analysis, specifically the worst-case scenario that included a description of the vessel or pipeline and substance selected as worst case, assumptions and parameters used, and the

rationale for selection.

2. 40 C.F.R. § 68.39(b): Respondent failed to maintain documentation on the offsite consequence analysis, specifically the alternative release scenario that included a description of the scenarios identified, assumptions and parameters used, and the rationale for the selection of specific scenarios.
3. 40 C.F.R. § 68.39(c): Respondent failed to maintain documentation on the offsite consequence analyses that included the estimated quantity released, release rate and the duration of release.
4. 40 C.F.R. § 68.39(d): Respondent failed to maintain documentation on the offsite consequence analyses that included the methodology used to determine distance to endpoints.
5. 40 C.F.R. § 68.39(e): Respondent failed to maintain documentation on the offsite consequence analyses that included the data used to estimate population and environmental receptors potentially affected.
6. 40 C.F.R. § 68.67(c)(5): Respondent failed to perform a process hazard analysis that addressed stationary source siting.
7. 40 C.F.R. § 68.67(c)(6): Respondent failed to perform a process hazard analysis that addressed human factors.
8. 40 C.F.R. § 68.67(e): Respondent failed to establish a system to promptly address the Process Hazard Analysis team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; completed actions as soon as possible; and develop a written schedule of when these actions are to be completed.
9. 40 C.F.R. § 68.67(f): Respondent failed to update and revalidate the process hazard analysis at least every five years after the completion of the initial process hazard analysis.
10. 40 C.F.R. § 68.67(g): Respondent failed to retain process hazard analyses and updates or revalidations for each process as well as the documented resolution of recommendations for the life of the process.
11. 40 C.F.R. § 68.69(a)(2): Respondent failed to develop operating procedures that address operating limits including consequences of deviation and steps required to correct or avoid deviation.
12. 40 C.F.R. § 68.69(a)(3): Respondent failed to develop and implement written operating procedures that address safety and health considerations.
13. 40 C.F.R. § 68.69(a)(4): Respondent failed to develop and implement written operating procedures that address safety systems and their functions.
14. 40 C.F.R. § 68.69(c) Respondent failed to certify annually that operating procedures are current and accurate.
15. 40 C.F.R. § 68.71(a)(2): Respondent failed to certify in writing that employees have the required knowledge, skills, and abilities to safely carry out their duties and responsibilities as specified in operating procedures.
16. 40 C.F.R. § 68.71(b): Respondent failed to provide refresher training at least every three years or more often if necessary to each employee involved in operating a process to assure that the employee understands and adhered to the current operating procedures of the process.

17. 40 C.F.R. § 68.71(c): Respondent failed to ascertain and document that each employee involved in operating a process has received and understood the training required.
18. 40 C.F.R. § 68.73(c): Respondent failed to train each employee involved in maintaining the ongoing integrity of process equipment in an overview of the process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.
19. 40 C.F.R. § 68.73(d)(3): Respondent failed to conduct inspections and tests of process equipment that were consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.
20. 40 C.F.R. § 68.73(d)(4): Respondent failed to document each inspection and test that has been performed on process equipment.
21. 40 C.F.R. § 68.79(a): Respondent failed to certify that compliance has been evaluated at least every three years to verify that procedures and practices developed are adequate and are being followed.
22. 40 C.F.R. § 68.81(a): Respondent failed to investigate each incident which resulted in or could reasonably have resulted in a catastrophic release of a regulated substance.
23. 40 C.F.R. § 68.81(b): Respondent failed to initiate an incident investigation as promptly as possible, but not later than 48 hours following the incident.
24. 40 C.F.R. § 68.87(b)(1): Respondent failed to obtain and evaluate information regarding a contract owner or operator's safety performance and programs.

SETTLEMENT

In consideration of Respondent's service size, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$8,800**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has

sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$8,800** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-20-ESA-003.)

This signed original ESA and a copy of the check must be sent by certified mail to:

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SE-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.


This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

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

**Expedited Settlement Agreement
In the Matter of City of Sault Ste. Marie Water Treatment Plant, Sault Ste. Marie, Michigan
Docket No. CAA-05-2020-0015**

FOR RESPONDENT:

Signature: 
Name (print): Brian Chapman
Title (print): City Manager
Respondent

Date: 2-25-2020

FOR COMPLAINANT:

MICHAEL HARRIS Digitally signed by MICHAEL HARRIS
Date: 2020.04.16 16:26:58 -05'00'

Michael D. Harris,
Acting Director
Enforcement & Compliance Assurance Division

Date: 4/16/2020

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.

ANN COYLE

Digitally signed by ANN
COYLE
Date: 2020.04.17
07:45:25 -05'00'

Date: 4/17/2020

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Expedited Settlement Agreement
In the matter of: City of Sault Ste. Marie Water Treatment Plant
Docket Number: **CAA-05-2020-0015**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, docket number **CAA-05-2020-0015** which was filed on **April 17, 2020** in the following manner to the following addresses:

Copy by E-mail to
Respondent:

Brian Chapman
bchapman@saultcity.com

Copy by E-mail to
RMP Contact:

Monika Chrzaszcz
Chrzaszcz.monika@epa.gov

Copy by E-mail to
Attorney for Complainant:

Robert Guenther
Guenther.robert@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: April 17, 2020

LWhitehead

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

