



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY RECEIVED  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

18 MAY 15 PM 12:03

HEARINGS CLERK  
REGION 10

**EXPEDITED SETTLEMENT AGREEMENT** RECEIVED

**DOCKET NO:** CAA-10-2018-0281  
**This ESA is issued to:** Public Works Department  
City of Bellingham  
104 West Magnolia Street, Suite 109  
Bellingham, Washington 98225

MAY - 3 2018

EPA - REGION 10  
Office of Compliance and Enforcement

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

**ALLEGED VIOLATIONS**

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

**SETTLEMENT**

In consideration of the penalty assessment factors set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$13,120**.

This settlement is subject to the following terms and conditions:

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

Respondent waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations listed in the enclosed Summary.

Respondent agrees to submit payment in full of the \$13,120 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

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

This original ESA must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator  
Office of Compliance and Enforcement  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101  
Seattle, Washington 98101

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

If the signed original ESA is not returned to the EPA Region 10 at the above address by Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

This ESA is binding on the parties signing below.

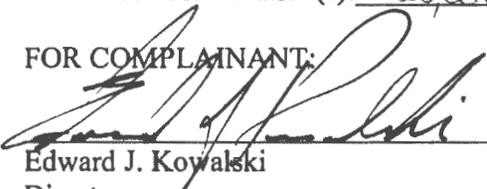
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature:   
Name (print): ROBERT W JOHNSON  
Title (print): SUPERINTENDENT OF PLANTS  
Cost to correct violation(s): \$25,000

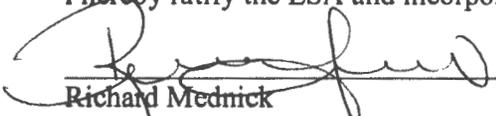
Date: 1 MAY 2018

FOR COMPLAINANT:

  
Edward J. Kowalski  
Director  
Office of Compliance and Enforcement

Date: 5/9/2018

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

  
Richard Mednick  
Regional Judicial Officer

Date: May 14, 2018

**Certificate of Service**

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: City of Bellingham Public Works Department, Docket No.: CAA-10-2018-0281**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

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

Javier Morales, RMP Coordinator  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, OCE-101  
Seattle, Washington 98101

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

Mr. Robert Johnson  
Superintendent  
Post Point Wastewater Treatment Plant  
Public Works Department  
City of Bellingham  
2221 Pacific Street  
Bellingham, Washington 98229

DATED this 15 day of May, 2018   
Teresa Young  
Regional Hearing Clerk  
EPA Region 10



# U.S. ENVIRONMENTAL PROTECTION AGENCY

## Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

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

FACILITY NAME Post Point Wastewater Treatment Plant		<input type="checkbox"/> PRIVATE	<input checked="" type="checkbox"/> GOVERNMENTAL/MUNICIPAL
		# EMPLOYEES <u>30</u>	POPULATION SERVED: <u>87,574</u>
FACILITY LOCATION 200 McKenzie Avenue, Bellingham, WA 98225		INSPECTION START DATE AND TIME: May 22, 2017; 1:30 PM	
MAILING ADDRESS 200 McKenzie Avenue, Bellingham, WA 98225		INSPECTION END DATE AND TIME: May 22, 2017; 4:30 PM	
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER Mr. Paul Grayston, Safety Specialist, (360) 778-7700		EPA FACILITY ID# 1000 0003 6935	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S) Mr. Paul Grayston, Safety Specialist Mr. Robert Johnson, Superintendent Ms. Peg Wendling, Technical Supervisor Mr. Karl Lowry, Operations Supervisor		INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Bob Hales, US EPA SEE Grantee, Lead Inspector, (206) 553-4090 Peter Phillips, US EPA SEE Grantee, Inspector Terry Garcia, US EPA SEE Grantee, Inspector Jim Petersen, START Contractor, Ecology and Environment, Inc.	
		INSPECTOR SIGNATURE <i>Steven Morder</i>	DATE 3/23/18

### INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: <u>04/14/99</u>	DATE OF LATEST RMP UPDATE: <u>09/08/14</u>	
1) PROCESS/NAICS CODE: <u>7782-50-5</u>	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>	
REGULATED SUBSTANCE: <u>chlorine</u>	MAX. QUANTITY IN PROCESS: <u>42,000</u> (lbs)	

### DESCRIPTION OF ALLEGED VIOLATIONS

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

Three EPA representatives and an EPA contractor inspected the Post Point Treatment Plant on May 22, 2017. Based upon this inspection the Post Point Treatment Plant is in violation of the following risk management program elements:

- Hazard Assessment:** Post Point Wastewater Treatment Plant did not estimate the population that would be included in the distance to the endpoint in the RMP based on a circle with the point of release at the center as required by 40 C.F.R. § 68.30(a). Post Point Wastewater Treatment Plant used a circle map with a 0.9 mile distance to end point, instead of correctly using 3 mile radius (determined by RMP Comp) to estimate the population.
- Hazard Assessment:** Post Point Wastewater Treatment Plant did not use the most recent Census data, or other updated information to estimate the population as required by 40 C.F.R. § 68.30(c). Post Point Wastewater Treatment Plant used 1990 census data for each 5 year update including the most recent filed in September 2014 rather than most current census data such as 2010.
- Process Hazard Analysis:** The PHA has not been updated and revalidated by a team every five year after the completion of the initial PHA to assure that the PHA is consistent with the current process as required by 40 C.F.R. § 68.67(f). Post Point Wastewater Treatment Plant was unable to produce documentation on the PHA updates and revalidations since the last PHA dated 1999.
- Operating Procedures:** Post Point Wastewater Treatment Plant procedures do not address emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner as required by 40 C.F.R. § 68.69(a)(1)(iv). Post Point Wastewater Treatment Plant was unable to produce written operating procedures for emergency shutdown for the chlorine storage process.
- Operating Procedures:** Post Point Wastewater Treatment Plant procedures do not address startup following a turnaround or after emergency shutdown as required by 40 C.F.R. § 68.69(a)(1)(vii). Post Point Wastewater Treatment Plant was unable to produce written operating procedures for startup following a turnaround or after emergency shutdown for the chlorine storage process.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

- 6. **Operating Procedures:** Post Point Wastewater Treatment Plant has not certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by 40 C.F.R. § 68.69(c). Post Point Wastewater Treatment Plant was unable to produce documentation that their operating procedures are being certified annually. The last certification was in 2014.
- 7. **Training:** Each employee involved in operating a process, and each employee before being involved in operating a newly assigned process has not been initially trained in an overview of the process and in the operating procedures as required by 40 C.F.R. § 68.71(a)(1). Post Point Wastewater Treatment Plant was unable to produce documentation on the initial training of any of their operators.
- 8. **Training:** The initial training did not include emphasis on safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks as required by 40 C.F.R. § 68.71(a)(1). Post Point Wastewater Treatment Plant provided the Standard Operating Guideline Chlorine Handling Procedures, no date, and Standard Operating Guideline Chlorine Leak, no date, that is used to discuss the hazards associated with chlorine process. Post Point Wastewater Treatment Plant was unable to produce training documentation of their operators that includes the safety and health hazards, emergency operations including shutdown, and safe work practices.
- 9. **Training:** Post Point Wastewater Treatment Plant has not ascertained and documented in record that each employee involved in operating a process has received and understood the training required as required by 40 C.F.R. § 68.71(c). Post Point Wastewater Treatment Plant provided 2014 refresher training documentation for their operators on the upgrades of the chlorination system equipment. The 2014 refresher training given by TMG Services discussed the safety and operation of the installed new equipment for the chlorine vacuum system. The 2014 refresher training documentation indicates that the operators received the training, but does not document that they understood the training.
- 10. **Training:** The prepared record does not contain the identity of the employee, the date of the training, and the means used to verify that the employee understood the training as required by 40 C.F.R. § 68.71(c). Post Point Wastewater Treatment Plant was unable to produce documentation on the initial training records of any of their operators. The 2014 refresher training documentation identifies the employee and training date, but does not document the means used to verify that the operator understood the training. Post Point Wastewater Treatment Plant's RMP dated 9/8/2014 indicates that on-the-job training is verified using observation.
- 11. **Compliance Audits:** Post Point Wastewater Treatment Plant has not certified that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed as required by 40 C.F.R. § 68.79(a). Post Point Wastewater Treatment Plant was unable to produce documentation on a compliance audit that was due April 19, 2017.
- 12. **Compliance Audits:** Post Point Wastewater Treatment Plant has not documented audit findings in a report as required by 40 C.F.R. § 68.79(c). Post Point Wastewater Treatment Plant was unable to produce documentation on the audit findings for an April 19, 2014 compliance audit.
- 13. **Compliance Audits:** Post Point Wastewater Treatment Plant has not promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected as required by 40 C.F.R. § 68.79(d). Post Point Wastewater Treatment Plant was unable to produce documentation on the correction of the audit findings for an April 19, 2014 compliance audit.
- 14. **Compliance Audits:** Post Point Wastewater Treatment Plant has not retained the two most recent compliance reports as required by 40 C.F.R. § 68.79(e). Post Point Wastewater Treatment Plant was unable to produce documentation of the April 19, 2014 compliance audit report.
- 15. **Emergency Response:** Post Point Wastewater Treatment Plant did not train all employees in the relevant emergency response procedures as required by 40 C.F.R. § 68.95(a)(3). Post Point Wastewater Treatment Plant was unable to produce training documentation for the eight Emergency Response Operator/Supervisor personnel on the emergency response procedures.
- 16. **Risk Management Plan:** The emergency contact information required at 68.160(b)(6) has changed since June 21, 2004, but the owner or operator did not submit corrected information within thirty days of the change as required by 40 C.F.R. § 68.195(b). The September 8, 2014, RMP references Larry Bateman as the emergency contact. The former emergency contact, Larry Bateman, had left approximately a year ago. The current emergency contact is Karl Lowry.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES  NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1 PROCESS CHECKLIST  PROGRAM LEVEL 2 PROCESS CHECKLIST  PROGRAM LEVEL 3 PROCESS CHECKLIST

OTHER ATTACHMENTS: \_\_\_\_\_