

**ENCLOSURE 2**  
**EXPEDITED SETTLEMENT ALLEGED VIOLATIONS AND FINAL ADJUSTED PENALTY SUMMARY**  
**Clean Air Act – Risk Management Program**

Respondent: Kiva Energy Inc.  
1262 Dupont Court  
Manteca, California 95336

Facility: Kiva Energy DBA LP Terminals LLC Washougal  
701 South 28<sup>th</sup> Street  
Washougal, Washington 98671

Responsible Official: Les Gleaves, Regional Terminals Manager  
(916) 257-7044

Inspection Date: March 3, 2023  
Inspection Time: 0900- 1120  
Lead Inspector: Mhara Coffman, RMP/EPCRA Inspector and Case Officer  
(206) 553-1236

**Inspection Findings and Alleged Violations**

**RMP Submission Date**

Initial Submission Date: 03-Mar-2005  
Date of Latest Update: 21-Sep-2021  
RMP Facility ID: 100000190964  
Program Level: 3  
Chemical Name: Propane  
Chemical Amount: 220,806 lbs  
NACIS Code: 42471  
Facility Type: Private Industry  
Employees: 1

**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 Section 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

On March 3, 2023, EPA inspectors conducted an On-site Compliance Inspection at the Kiva Energy DBA LP Terminal LLC Washougal facility listed above. The following is a summary of the Alleged Violations of the Risk Management Program which were identified during the inspection.

1. The facility failed to analyze and report the one worst-case release scenario estimated to create the greatest distance to an endpoint resulting from an accidental release of a regulated flammable

substance from covered processes under worst-case conditions. [68.25(a)(2)(ii)]. Kiva Energy was unable to provide documentation for their worst-case scenario for the LPG process.

2. The facility failed to identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process(es) and at least one alternative release scenario to represent all flammable substances held in covered processes. [68.28(a)]. Kiva Energy was unable to provide documentation for the alternative release scenario for the LPG process.
3. The facility did not document the worst case and alternative case scenarios for the LPG process. There was no documentation onsite for the worst case and alternative case that estimated quantity released, release rate and duration of release for the LPG process. There was no documentation onsite stating the distance to endpoints and the estimated population and environmental receptors potentially affected for the LPG process. [68.39].

### **Final Adjusted Penalty Calculation**

The Final Adjusted Penalty for an RMP ESA is a non-negotiable penalty offer.

First the Unadjusted Penalty is calculated using the Risk Management Program Expedited Settlement Penalty Sheet, Enclosure 2. Each Alleged Violation listed above is assigned a penalty amount in the spreadsheet and the Unadjusted Penalty is determined by adding all the penalty amounts.

The Unadjusted Penalty is multiplied by the Size-Threshold Quantity Multiplier to determine the Adjusted Penalty. The Size-Threshold Quantity Multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility. See the Multiplier Factor tables below.

$$\text{Adjusted Penalty} = \text{Unadjusted Penalty} \times \text{Size-Threshold Quantity Multiplier}$$

#### **Unadjusted Penalty Calculation**

Adding the penalty numbers in the Risk Management Program Expedited Settlement Penalty Sheet, an unadjusted penalty of \$5,100 is derived.

#### **Size-Threshold Quantity Multiplier**

According to the RMP, the facility employs between 0 to 9 people and uses and/or stores greater than 10 times the threshold amount of propane, which is regulated under the Clean Air Act Section 112(r) Risk Management Program. Using the tables below, the multiplier is determined to be 0.8.

### **Adjusted Penalty Calculation**

Adjusted Penalty = \$5,100 (Unadjusted Penalty) x 0.8 (Size-Threshold Multiplier)

Final Adjusted Penalty = \$4,080

**EXPEDITED SETTLEMENT PENALTY MATRIX**  
**Multiplier Factor for Calculating Proposed Penalties for RMP Violations**

**Private Industries**

<b># of Employees</b>	<b>1 – 5*</b>	<b>5 – 10*</b>	<b>10*</b>
0 – 9	0.4	0.6	0.8
10 – 100	0.6	0.8	1.0
100	1.0	1.0	1.0

**Governmental Entities**

(Primarily public drinking water and wastewater systems)

<b>Total Population Served</b>	<b>1 – 5*</b>	<b>5 – 10*</b>	<b>10*</b>
1 – 10,000	0.2	0.4	0.6
10,001 – 100,000	0.4	0.6	0.8
100,000	0.6	0.8	1.0

\* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.