



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

FILED

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REC'D
EPA REGION VI

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: CAA 06-2019-3510

This complaint is issued to: Airgas Specialty Products

At: 6603A West Bay Road, Baytown, Texas 77520

for violating Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered by the United States Environmental Protection Agency (EPA), Region 6, by its delegated official, the Director, Enforcement and Compliance Assurance Division, and by Airgas Specialty Products (Respondent) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA and the United States Department of Justice have jointly determined that EPA may pursue this type of case as an administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

On April 18, 2019, an authorized representative of the EPA conducted a compliance inspection of the subject facility (Respondent) to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act, 42 U.S.C. § 7412(r). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act, 42 U.S.C. § 7412(r), by failing to comply with the regulations as noted.

- 1) 40 C.F.R. § 68.69(c) "Operating Procedures" States that the operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

The Respondent violated 40 C.F.R. § 68.69(c) by failing to annually certify its operating procedures. Respondent's 2016 operating procedures certification was not provided for review.

- 2) 40 C.F.R. § 68.75(c) "Management of change" States that employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

The Respondent violated 40 C.F.R. § 68.75(c) by failing to train its employees prior to start-up of the affected part of the process.

- 3) 40 C.F.R. § 68.77(b)(4) "Pre-startup review" States the pre-startup safety review shall confirm that prior to the introduction of regulated substances to a process; (4) and training of each employee involved in operating a process has been completed.

The Respondent violated 40 C.F.R. § 68.77(b)(4) by failing to perform a Pre-startup safety review that confirmed training prior to the introduction of the regulated substances to the process, the training was completed after the pre-startup safety review was performed.

SETTLEMENT

In consideration of the factors set forth in Section 113 of the Act, 42 U.S.C. § 7413(e), including Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require and upon consideration of the entire record the parties enter into the ESA in order to settle the violations, described above for the total penalty amount of **\$1,920.00**. This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed above and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") or by wire transfer in the amount of **\$1,920.00** in payment of the full penalty amount to the following address:

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

Or

For wire transfer, the payment should be remitted to:

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

Field Tag 4200 of the Fed-wire message should read "D 68010727 Environmental Protection Agency" with a phone number of (412) 234-4381.

The DOCKET NUMBER OF THIS ESA must be included on the certified check. (The DOCKET NUMBER is located at the top of this ESA). **The original Settlement Agreement and a copy of the certified check or wire transfer must be sent by mail to:**

In the Matter of Airgas Specialty Products
Docket No. CAA 06-2019-3510

Respondent's Brief Description of Complying Action: SEE ATTACHED

If you need additional space or would like to provide additional supporting documentation, please attach to this document.


SIGNATURE BY EPA:



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Date: 10/3/19

It is so ORDERED. This Order shall become effective upon filing of the fully executed Complaint and ESA with the Regional Hearing Clerk.



Thomas Rucki
Regional Judicial Officer

Date: 10/7/19

EPA Expedited Settlement Agreement

Docket No. 06-2019-3510

6603A West Bay Rd. Baytown, TX 77520

Description of Complying Actions

Item 1 – Failure to certify Operating Procedures in 2016: Although the operating procedures were not certified in 2016 they were certified in early 2017 and again in 2018 and 2019. The facility manager has been retrained on the critical importance of reviewing the operating procedures for accuracy annually and certifying that they are current and accurate.

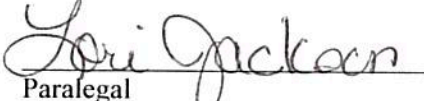
Item 2 – Failure to train employees prior to start-up or affected part of the process after a modification: All employees were trained on the modified process. The facility manager was also retrained on the importance of completing all aspects of the MOC, including training, prior to the start-up of the modified process.

Item 3 – Failure to perform a pre-startup safety review (PSSR) that included training prior to start-up of modified process: The PSSR including training of all employees was completed. The facility manager was also retrained on the importance of completing all aspects of the MOC, including training, prior to the start-up of the modified process.

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of Oct., the original of the foregoing Final Order of the Clean Air Act, Section 112(r) Expedited Settlement Agreement, was hand delivered to the Regional Hearing Clerk, U. S. EPA, Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270, and that a true and correct copy was placed in the United States mail, first class postage prepaid, addressed to the following:

Mr. Clarke Scott
Airgas Specialty Products
2530 Sever Road, Suite 300
Lawrenceville, GA 30043


Paralegal
Office of Regional Counsel
US EPA - Region 6