

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

FILED

EXPEDITED SETTLEMENT AGREEMENT (ESA) 2019 JUL -2 AM 11:37

Docket No: CAA 06-2019-3340

REGIONAL HEARING CLERK
EPA REGION VI

This complaint is issued to: **Eco Services Operations, LLC., Baytown Plant**

At: **3439 Park Street, Baytown, Texas, 77522**

For: **Violating Section 112(r)(7) of the Clean Air Act**

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 6, by its duly delegated official, the Director, Enforcement and Compliance Assurance Division, and by Eco Services Operations, LLC., (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).

From September 17-19, 2018, 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 below:

1) 40 C.F.R. § 68.79(d), "The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected." There were findings from the 2015 Compliance Audit that were completed past the due date assigned. Respondent failed to implement the procedures by not meeting the assigned date.

2) 40 C.F.R. § 68.85(b), "The permit shall document that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations." Respondent failed to document the Fire Watch time required to issue a hot work permit.

3) 40 C.F.R. § 68.95(a)(1)(3), "The owner or operator shall develop and implement an emergency response program for protecting public health and the environment. Such program shall include the following elements: Training for all employees in relevant procedures." Several members of the Emergency Response Team were not current on their First Aid Training.

SETTLEMENT

In consideration of the factors set forth in Section 113(e) 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 **\$1,320**. 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") in the amount of **\$1,320** 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

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

Sherronda Phelps
Enforcement Officer
Chemical Accident Enforcement Section (ECDAC)
U.S. Environmental Protection Agency, Region 6
10625 Fallstone Rd.
Houston, Texas 77099-4303

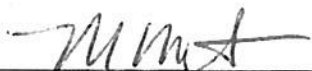
Respondent's full payment of the penalty as provided in this Settlement Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged above. EPA does not waive any enforcement action by EPA for any other past, present, or future violations under the Act or any other statute.

If the Settlement Agreement with an attached copy of the certified check is not returned to the EPA Region 6 office at the above address in correct form by the Respondent within 30 days of the date of the receipt of this Settlement Agreement, the Complaint and ESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violations identified in this Settlement Agreement.

Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this complaint pursuant to 40 CFR § 22.14. Upon signing and returning of this Settlement Agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A).

This Settlement Agreement is binding on the EPA and the Respondent. By signing below, the Respondent waives any objections to EPA's jurisdiction with respect to the Settlement Agreement and consents to EPA's approval of this Settlement Agreement without further notice. This Settlement Agreement is effective upon filing with the Regional Hearing Clerk.

SIGNATURE BY RESPONDENT:

Signature: 

Date: 5/30/19

Name (print): Michael Marchot

Title (print): Plant Manager

Cost of Corrective Actions: \$ 0

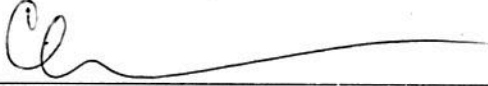
Respondent's Brief Description of Complying Action: _____

- 1 - 2015 Compliance Audit Action Items have been completed.
- 2 - Fire Water / Hot work training conducted.
- 3 - Emergency Response Team First Aid Training Deficiencies have been corrected with refresher training.

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

In the Matter of Eco Services Operations, LLC,
Docket No. ESA 06-2019-3340

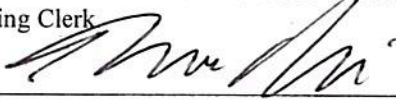
SIGNATURE BY EPA:



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Date: 6-26-19

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: 7/1/19

R6 REV.