

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

**\*\* FILED \*\***  
30JUL2018 - 04:01PM  
U.S.EPA - Region 09

DOCKET NO: CAA (112r)-09-2018-0004

This ESA is issued to: Pacific Ethanol, Stockton  
3028 Navy Drive  
Stockton, CA 95206

For: Violation of Section 112(r)(7) of the Clean Air Act.  
At: Pacific Ethanol, Stockton; 3028 Navy Drive, Stockton, CA 95206

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This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Enrique Manzanilla, Superfund Director, and Pacific Ethanol, Stockton ("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 has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

Following its May 24, 2017 inspection, EPA alleges Respondent's failure to:

- 1) Comply with the requirements of 40 C.F.R. § 68.65(d)(1)(i) in that within the piping specification S-PIPE-001, dated July 23, 2014, Pacific Ethanol Madera ("PEM")-2017-01118 through PEM-2017-01157, the denaturant ("DN") is not indicated in the piping specification service table, not indicated as a service for CS2, nor is DN indicated as an appropriate service for any of the piping specifications, so it is unclear what is the appropriate material for DN, within the piping specification.
- 2) Comply with the requirements of 40 C.F.R. § 68.65(d)(1)(ii) in that P&ID drawing 241-PI-7701, Chemical Addition sheet 1 of 2, dated October 31, 2007, PES-2017-00057, and drawing 1241-PI-6102, dated June 23, 2015, Ethanol Storage and Layout sheet 2 of 2, PEM-2017-00058 are not accurate.
- 3) Comply with the requirements of 40 C.F.R. § 68.65(d)(2) in that the denaturant tank relief valve's design per document PES-2017-01990 through PES-2017-01991 is based on API 2000, which is for vacuum through 15 pounds per square inch gauge ("psig"), but the tank relief valve is set at 40 psig. This does not meet recognized and generally accepted good engineering practices, such as API 520 and API 521.
- 4) Comply with the requirements of 40 C.F.R. § 68.69(a)(3)(ii) in that operating procedure "Denaturant-Unload, Commodities" PES-2017-00034 through 00035 contains the vague reference "General Workplace PPE" in the section titled "Safety/Environmental."; and operating procedure "Tank Farm – Capacities", PES-2017-00055 through 00056 contains a vague reference to "General Workplace PPE" in the section titled "Safety/ Environmental." Neither operating procedures reference where the definition of "General Workplace PPE" may be found. The operating procedures do not adequately address precautions to prevent exposure to personnel in the reviewed operating procedures, including specification of use of personal protective equipment.
- 5) Comply with the requirements of 40 C.F.R. § 68.69(a)(3)(iii) in that procedures Aqua Ammonia Truck Unloading-Truck Driver (rev. 12-1-2016), PES-2017-00027-00033, Aqua Ammonia Truck Unloading-Production (rev. 8-14-2014), PES-2017-00024-00026, Slurry Normal Operating Procedure (addition of

ammonia) (rev. 2-10-2017), PES-2017-00042 thru 00054, Denaturant Truck Unloading-Truck Driver (rev. 12-16-2014), PES-2017-00036- 00041, Denaturant Unload, Commodities (rev. 12-16-2014), PES-2017-00034, Tank Farm Capacities (rev. 12-16-2014), PES-2017-00055-00056, and Emergency Shutdown for loss of DCS or Main Power (rev. 2-10-2017), PES-2017-01953-01957, do not address control measures if material is contacted or inhaled.

- 6) Comply with the requirements of 40 C.F.R. § 68.73(e) in that two work order recommendations that are still open, related to the ammonia and denaturant systems PES-2017-01108, do not have an initiation or due date associated with the documentation. Two equipment deficiencies were not corrected before further use
- 7) Comply with the requirements in 40 C.F.R. § 68.75(a) in that MOC 20140006, a thermocouple change, showed that a maintenance review was identified as required, but the "Maintenance" review status was shown as "Not Complete"; and MOC 20140010, "Add an ammonia unloading procedure for the production operator" indicated no review assigned or completed. Steps 2 and 3 in the Facility's written MOC procedure require reviews. The written management of change procedures were not implemented.
- 8) Comply with the requirements in 40 C.F.R. § 68.90(b)(3) in that the Emergency Response Plan ("ERP") included incorrect contact information for the CUPA, so the mechanism to notify emergency responders is inaccurate.

## SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$8,400**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, 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 attorney's fees and costs, 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 an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) **or alternatively has sent a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$8,400** in payment of the full penalty amount to the following address:

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

The check or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the EPA Cincinnati Finance Center. This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Angie Proboszcz (SFD-9-3)  
U.S. Environmental Protection Agency  
Region IX

75 Hawthorne Street  
San Francisco, CA 94105

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA and EPA has not granted an extension of its offer to settle, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT – Pacific Ethanol Stockton

Signature: Michael Kandris

Date: 5/29/18

Name (print): Mike Kandris

Title (print): Chief Operating Officer, Executive

FOR COMPLAINANT:

Enrique Manzanilla

Date: 18 July 2018

Enrique Manzanilla  
Superfund Director  
U.S. EPA Region IX

It is hereby ORDERED that this ESA be entered and Respondent pays the above penalty.

Steven L. Jawgiel  
Steven L. Jawgiel  
Regional Judicial Officer  
U.S. EPA Region IX

Date: 07/26/18

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Expedited Settlement Agreement (ESA) in the matter of Pacific Ethanol, Stockton [Docket Number CAA(112R)-09-2018-0004] has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

The Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:  
(With Return Receipt)

Respondent -

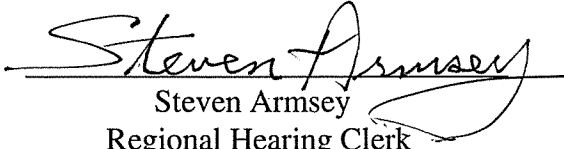
Mike Kandris  
Chief Operating Officer Executive  
Pacific Ethanol  
400 Capitol Mall #2060  
Sacramento, CA 95814

HAND DELIVERED:

Complainant -  
(By Counsel)

Andrew Helmlinger  
Office of Regional Counsel  
ENVIRONMENTAL PROTECTION AGENCY  
75 Hawthorne Street  
San Francisco, CA. 94105

Dated at San Francisco, CA, July 30, 2018;

  
Steven Armsey  
Regional Hearing Clerk  
EPA, Region 9