



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR - 9 2016

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ed Brister
Director, Regulatory Compliance/ Engineering
Helena Chemical Company
225 Schilling Blvd., Suite 300
Collierville, Tennessee 38017

RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-16-ESA-006
Docket No. **CAA-05-2016-0016**

Dear Mr. Brister:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590



DOCKET NO: RMP-16-ESA-006

CAA-05-2016-0016

This ESA is issued to: Helena Chemical Company
at: 60 Route 52, Minooka, Illinois 60447
for violations of Section 112(r)(7) of the Clean Air Act.

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and Helena Chemical Company ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On July 7, 2015, an authorized EPA representative conducted a compliance inspection of Helena Chemical Company, located at 60 Route 52, Minooka, Illinois 60447 ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the July 7, 2015 inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.39(a) Respondent failed to maintain records on the offsite consequence analyses that includes for the worst-case scenario, a description of the vessel or pipeline and substance selected as worst case, assumptions and parameters used, and the rationale for selection; assumptions shall include use of any administrative controls and any passive mitigation that were assumed to limit the quantity that could be released.
2. 40 C.F.R. § 68.39(b) Respondent failed to maintain records on the offsite consequence analyses that includes for the alternative release scenario, a

description of the scenario identified, assumptions and parameters used and the rationale for the selection of specific scenarios; assumptions shall include any administrative controls and any mitigation that were assumed to limit the quantity that could be released.

3. 40 C.F.R. § 68.39(c) Respondent failed to maintain records on the offsite consequence analyses that includes documentation of estimated quantity released, release rate, and duration of release.
4. 40 C.F.R. § 68.39(d) Respondent failed to maintain records on the offsite consequence analyses that includes data used to estimate population and environmental receptors potentially affected.
5. 40 C.F.R. § 68.48(a)(2) Respondent failed to compile and maintain up-to-date safety information related to the regulated substances, processes, and equipment that includes maximum intended inventory of equipment, in which the regulated substances are stored or processed.
6. 40 C.F.R. § 68.54(a) Respondent failed to ensure that each employee presently operating a process, and each employee newly assigned to a covered process have been trained or tested competent in the operating procedures provided that pertain to their duties.
7. 40 C.F.R. § 68.56(b) Respondent failed to train or cause to be trained each employee involved in maintaining the on-going mechanical integrity of the process. To ensure that the employee can perform the job tasks in a safe manner, each such employee shall be trained in the hazards of the process, in how to avoid or correct unsafe conditions, and in the procedures applicable to the employee's job tasks.
8. 40 C.F.R. § 68.56(d)(3) Respondent failed to perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience.

SETTLEMENT

In consideration of Respondent's full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$2,880**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding

jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$2,880** in payment of the full penalty amount to the following address:

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

The Docket Number of this ESA must be included on the check. (The Docket Number is RMP-16-ESA-006.)

This signed original ESA and a copy of the check must be sent by certified mail to:

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.

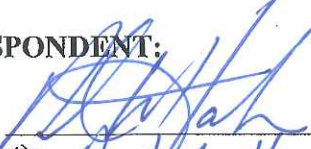
If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.


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

FOR RESPONDENT:

Signature: 
Name (print): David W. Hawkins
Title (print): Asst. Sec. & General Counsel
Respondent

Date: 2/24/2016

FOR COMPLAINANT:

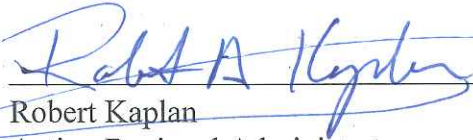

Richard C. Karl, Director
52 Superfund Division

Date: 3/2/2016

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Robert Kaplan
Acting Regional Administrator

Date: March 7, 2015

In the matter of: Helena Chemical Company

Docket Number: **CAA-05-2016-0016**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, which was filed on March 9, 2016, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Ed Brister
Director, Regulatory Compliance/Engineering
Helena Chemical Company
225 Schilling Blvd., Suite 300
Collierville, Tennessee 38017

Copy by e-mail to
Complainant:

Steven Kaiser
kaiser.steven@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

March 9, 2016 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7011 1150 0000 2640 6622