



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 12 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Army Material Command Legal Center- REDSTONE Arsenal AMCLC-RSA-GL-A
c/o: Walter S. King, ESQ
Building 5300
Room 5472
Arsenal, Alabama 35899-5000

Re: United States Army Garrison- Redstone Arsenal
Consent Agreement and Final Order
CAA-04-2015-8010(b)

Dear Mr. King:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2015-8010(b)) involving United States Army Garrison- Redstone Arsenal. The CAFO was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing.

Also, enclosed please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts United States Army Garrison- Redstone Arsenal on notice of its potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U. S. Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Ms. Lucia Mendez at (404) 562-9637.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Toney", with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
BEFORE THE ADMINISTRATOR**

IN THE MATTER OF:

United States Department of the Army
Respondent,
United States Army Garrison,
Redstone Arsenal, Alabama Facility.

**Docket No.
CAA-04-2015-8010(b)**

**USEPA, REGION 4
OFFICE OF REGIONAL
COUNSEL
2017 OCT 12 AM 8:32
HEARING CLERK**

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region 4 (the "EPA"). The Director of the Air, Pesticides and Toxics Management Division, EPA Region 4, is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act.
3. Respondent is the United States (U.S.) Department of the Army's U.S. Army Garrison, a federal agency doing business in the Redstone Arsenal in the State of Alabama. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement ("Consent Agreement" or "Agreement") and the attached final order ("Final Order" or "Order") without adjudication of any issue of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order (CAFO).

B. JURISDICTION

5. This Consent Agreement is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this Consent Agreement are pursuant to Section 113(a)(3)(A).
6. The EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. On October 16, 2014, the EPA issued to Respondent a Notice of Potential Violation (“NOPV”), providing notice that the EPA found that Respondent potentially committed the alleged violations described in Section E of this Agreement and providing Respondent an opportunity to confer with the EPA. On January 20, 2015, representatives of Respondent and the EPA discussed the October 16, 2014 NOPV.

8. The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes settlement between Complainant and Respondent. 40 C.F.R. § 22.4(b) and 22.18(b).

9. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. Respondent operates a “stationary source” as that term is defined by Section 302(z) of the Act, 42 U.S.C. § 7602(z) at both Redstone Arsenal Water Treatment Plant # 1 (Plant # 1) and Redstone Arsenal Water Treatment Plant # 3 (Plant # 3), two of its operating locations in Redstone Arsenal, Alabama. Plant # 1 is located at 8040 Shields Road and Plant # 3 is located at 5428 Jungerman Road. Both Plant # 1 and Plant # 3 are located on the Respondent’s military base, known as the Redstone Arsenal in Redstone Arsenal, Alabama.

11. Section 112(r) of the Act, 42 U.S.C. § 7412(r), addresses the prevention of releases of substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3). The purpose of this section is to prevent the accidental release of extremely hazardous substances and to minimize the consequences of such releases. Pursuant to Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), the EPA is authorized to promulgate regulations for accidental release prevention.

12. Pursuant to Section 112(r)(3) and 112(r)(7) of the Act, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(7), the EPA promulgated rules codified at 40 C.F.R. Part 68, Chemical Accident Prevention Provisions. These regulations are collectively referred to as the “Risk Management Program” (RMProgram) and apply to an owner or operator of a stationary source that has a threshold quantity of a regulated substance in a process. Pursuant to Sections 112(r)(3) and 112(r)(5) of the Act, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(5), the list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.

13. Pursuant to Section 112(r)(7)(B)(iii) of the Act, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 C.F.R. §§ 68.10 and 68.150, the owner or operator of a stationary source that has a regulated substance in an amount equal to or in excess of the applicable RMProgram threshold in a “process” as defined in 40 C.F.R. § 68.3, must develop an RMProgram accidental release prevention program, and submit and register a single Risk Management Plan (RMPlan) to the EPA for each stationary source.

D. FACTUAL ALLEGATIONS

14. Respondent has submitted and registered an RMPlan to the EPA for each of its stationary sources, one for Plant #1, and a separate one for Plant #3, and has developed an RMProgram accidental release prevention program for each stationary source.

15. For the purpose of this Agreement:

(a) At both stationary sources, identified in paragraph 10, above, the Respondent operates water treatment plants.

(b) At both stationary sources, the Respondent has on-site for use, chlorine for water disinfectant purposes, with 8,000 pounds at each of the two plants.

(c) At both of its stationary sources, the Respondent has an RMProgram level 3 covered potable water disinfection process, and both stored, individually, or otherwise used chlorine in an amount exceeding its applicable threshold of 2,500 pounds.

(d) During calendar year 2013, EPA opened an RMProgram compliance monitoring investigation to determine Respondent's compliance with 40 C.F.R. Part 68 at its stationary sources. As part of this investigation, an authorized EPA representative conducted an onsite inspection of RMProgram related records on December 17, 2013 at Plant # 1, and on December 18, 2013 at Plant # 3. The focus of each onsite inspection was to assess the Respondent's compliance with RMProgram requirements for its covered processes operating at both of its stationary sources. The inspections consisted of examination of Respondent's relevant accident prevention program documentation as well as a visual inspection of various aspects of facility operations at each of the two plants. Respondent's management, operations, and maintenance personnel assisted EPA during the inspections. Based on the documentation review and visual inspections, the EPA determined that the Respondent's RMPrograms were deficient, for both Plant # 1 and Plant # 3, in the following areas;

(e) At the time of the inspection, the Respondent did not have process piping labeled in the Industrial Feed Chlorination Room or in the Domestic Feed Chlorination Room to indicate both the contents and the direction of flow in the process piping;

(f) At the time of the inspection or thereafter, the Respondent could not produce all of their Process Hazard Analyses (PHAs) for either source. The only PHA the Respondent had for either source was dated 2004;

(g) At the time of the inspection or thereafter, the Respondent could not provide written operating procedures for the use of chlorine in their water treatment activities;

(h) At the time of the inspection or thereafter, the Respondent could not provide evidence that operating procedures had been annually reviewed and certified as current and accurate;

(i) At the time of the inspection or thereafter, the Respondent could not provide evidence they had performed routine inspections and tests of process equipment;

(j) At the time of the inspection or thereafter, the Respondent provided a preventative maintenance program (PMP), designed in March of 2006 by an outside contractor. This PMP indicated the chlorine scales were to be checked and calibrated quarterly and the cylinder cradles were to be inspected weekly. The Respondent could provide no records documenting the inspection results;

(k) At the time of the inspection or thereafter, the Respondent could not provide copies of inspections performed on the crane overhead assembly, although annual inspections were required per the equipment manual;

(l) At the time of the inspection or thereafter, the Respondent had only one Compliance Audit. That audit had been conducted in 2009; and

(m) At the time of the inspection or thereafter, the Respondent could not provide information that it had consulted with employees, at either location, about the individual locations' process hazards.

E. ALLEGED VIOLATIONS OF LAW

16. Based on EPA's compliance monitoring investigation, the EPA alleges that the Respondent violated the codified rules governing the Act's Chemical Accident Prevention Provisions, because Respondent did not adequately implement provisions of 40 C.F.R. Part 68, at both Plant # 1 and Plant # 3, when it:

Failed to document that equipment complies with recognized and generally accepted good engineering practices as required by 40 CFR § 68.65(d)(2);

Failed to retain process hazard analyses and updates or revalidations for each process as required by 40 CFR § 68.67(g);

Failed to develop and implement written operating procedures that provide instructions or steps for conducting activities associated with the covered process consistent with the safety information as required by 40 CFR § 68.69(a);

Failed to annually certify that operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by 40 CFR § 68.69(c);

Failed to perform inspections and tests on process equipment as required by 40 CFR § 68.73(d)(1);

Failed to certify that the facility has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed as required by 40 CFR § 68.79(a);

Failed to consult with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management as required by 40 CFR § 68.83(b);

F. TERMS OF CONSENT AGREEMENT

17. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits that the EPA has jurisdiction over the subject matter alleged in this Agreement;
- (b) neither admits nor denies the factual allegations stated above;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to the conditions specified in this Agreement;
- (f) consents to any Permit Action;
- (g) waives any rights to contest the alleged violations of law set forth in Section E of this Consent Agreement;
- (h) waives its rights to appeal the Order accompanying this Agreement, and
- (i) certifies that as of its execution of this Agreement, it is in compliance with all relevant requirements of 40 C.F.R. Part 68.

18. For the purpose of this proceeding, Respondent:

- (a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) Respondent expressly waives the notice requirement and its opportunity to request a hearing on the order pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and
- (d) Respondent expressly waives any right to contest the allegations contained in this CAFO and to appeal the Final Order set forth in this CAFO, including any right to confer with the EPA Administrator under 40 C.F.R. § 22.31(e) with regard to this case.

19. Penalty Payment. Respondent agrees to:

- a) pay the civil penalty of **FORTY-FOUR THOUSAND EIGHT HUNDRED DOLLARS (\$44,800)** ("EPA Penalty") within 30 calendar days of the Effective Date of this Agreement;
- b) pay the EPA Penalty by forwarding a cashier's or certified check payable to the "Treasurer, United States of America," or by electronic transfer to one of the following addresses:

For payment sent via electronic transfer
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: "U.S. Environmental Protection Agency";

For payment sent via standard delivery
U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
St. Louis, MO 63197-9000; or

For payment sent for signed receipt confirmation (FedEx, DSL, UPS, USPS Certified)

U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(Delivery Location Phone Number: 314-425-1819).

The check shall reference on its face the name and the Docket Number of the CAFO.

Respondent's Treasury Account Symbol is 21 2020 or 21X2020. Inquiries concerning this payment can be made to Jennifer Robinson, who can be contacted at (256) 876-1190 or, by email, at: jennifer.l.robinson128.civ@mail.mil.

Within 24 hours of payment of the EPA Penalty, send a separate copy of the check or confirmation of electronic transfer, and a written statement that payment has been made in accordance with this Agreement, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Jordan Noles
Chemical Management and Emergency
Planning Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

20. Respondent shall seek all existing funds to meet the requirements of the CAFO. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligations to comply with the CAFO. If Respondent fails to make full and complete payment of the \$44,800 penalty by the due date set forth in this CAFO, the entire unpaid balance of the penalty shall become immediately due and owing. EPA reserves its right to compel payment, and in any action to compel payment of the unpaid balance of the penalty, the validity, amount and appropriateness of the penalty shall not be subject to review. EPA also reserves the right to seek interest on any unpaid portion of the late payment. No interest shall be payable on any portion of the assessed penalty that is paid within 90 days of the effective date of the Final Order. The Army disputes EPA's authority to impose interest charges on a federal agency and reserves

its right to dispute any imposition of interest by EPA.

21. By signing this Agreement, Respondent acknowledges that this Agreement and Order will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.

22. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.

23. By signing this Agreement, both parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations.

24. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

25. Except as qualified by Paragraph 20, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

26. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

27. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

28. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon written agreement of both parties, and approval of the Regional Judicial Officer.

29. Any violation of this Order may result in an administrative action for civil administrative penalties of up to \$45,268 per day per violation, as provided in Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

30. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or

local permit.

31. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

32. The EPA reserves the right to revoke this Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

33. Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Regional Judicial Officer is authorized to ratify this Final Order pursuant to 40 C.F.R. § 22.4(b) and 22.18(b). The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties for the violations of the Clean Air Act as alleged in the Consent Agreement. In accordance with 40 C.F.R. § 22.13(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief for criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Clean Air Act and regulations promulgated or permits issued thereunder. The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

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H. EFFECTIVE DATE

34. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk. The foregoing Consent Agreement in the Matter U.S. Department of the Army, US Army Garrison, Redstone Arsenal, Alabama, Docket No. CAA-04-2015-8010(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

U.S. Department of the Army
US Army Garrison, Redstone Arsenal, Alabama

By: Tom Holliday Date: 13 Jul 17
Name: Thomas P. Holliday Jr. (Typed or Printed)
Title: Garrison Commander (Typed or Printed)

FOR COMPLAINANT:

U.S. Environmental Protection Agency

By: Carol L. Banister Date: 9/26/17

for Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the matter of United States Army Garrison- Redstone Arsenal, CAA-04-2015-8010(b), on the parties listed below in the manner indicated:

Robert W. Bookman
U. S. EPA, Region 4
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)

Lucia Mendez
U. S. EPA, Region 4
Office of Regional Counsel
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)

Army Material Command Legal Center-
REDSTONE Arsenal AMCLC-RSA-GL-A
c/o: Walter S. King, ESQ
Building 5300
Room 5472
Arsenal, AL 35899- 5000

(Via Certified Mail -
Return Receipt Requested)

Date: 10-12-17



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511