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112(r)/Air Enforcement: U.S. Environmental Protection Agency and Downingtown Town, Pennsylvania, Water Authority Enter into Expedited Settlement Agreement

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The United States Environmental Protection Agency (“EPA”) and Downingtown Regional Water Authority (“DRWA”) entered into an Expedited Settlement Agreement (“ESA”) addressing alleged violations of Section 112(r) of the Clean Air Act.

DRWA is described as a Regional Water Authority.

Section 112(r) of the Clean Air Act provides EPA the authority to promulgate the Risk Management Program Regulations found at 40 C.F.R. Part 68.

EPA is stated to have conducted an inspection of DRWA’s facility (“Facility”) on October 26, 2021, in Downingtown, Pennsylvania. During such inspection, the EPA representative is stated to have observed that the Facility handles a maximum of approximately 8,000 pounds of chlorine.

Chlorine is a regulated substance for purposes of Section 112(r)(7). Further, the threshold quantity for the regulated toxic substance is 2,500 pounds for chlorine. As a result, the ESA states that more than a threshold quantity of a regulated substance is present in a process at the Facility.

The ESA identifies the following alleged violations of the Risk Management Program Regulations:

1. From at least 6/20/2019 until 4/6/2022, Respondent failed to certify annually that the operating procedures are current and accurate., in violation of 40 C.F.R. § 68.69(c); and
2. From at least 2016 until 2019, Respondent failed to certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate in violation of 40 C.F.R. § 68.79(a).
3. From at least 9/18/1994 (facility opening date) until 4/12/2022, facility failed to install air intake for the chlorine building correctly. The air intake for a chlorine building should not be on the floor and should be moved to a higher elevation to allow the adequate removal of chlorine in a release event. The item was not installed in accordance with the recognized and generally accepted good engineering practices (Chlorine Institute Pamphlet 155) at the time of installation, in violation of 40 C.F.R. § 68.65(d)(2).

A civil penalty of \$1,440 is assessed.

A copy of the ESA can be downloaded [here](#).