

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	
Manor Chemical Company, Inc.	)	Docket No. CWA-07-2022-0054
	)	
Respondent	)	
	)	
Proceedings under Section 311(b)(6) of the	)	COMPLAINT AND
Clean Water Act, 33 U.S.C. § 1321(b)(6)	)	CONSENT AGREEMENT /
	)	FINAL ORDER

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**COMPLAINT**

**Jurisdiction**

1. This is an administrative action for the assessment of civil penalties initiated pursuant to Section 311(b)(6) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) at 40 C.F.R. Part 22.

2. Complainant, the U.S. Environmental Protection Agency Region 7 (EPA) and Respondent, Manor Chemical Company, Inc., have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. This Complaint and Consent Agreement/Final Order serves as notice that the EPA has reason to believe that Respondent has violated the requirements of the oil pollution prevention regulations codified at 40 C.F.R. Part 112, promulgated pursuant to Section 311(j) of the CWA, 33 U.S.C. § 1321(j).

**Parties**

4. Complainant is the Division Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

5. Respondent is Manor Chemical Company, Inc., a corporation doing business in Missouri.

### **Statutory and Regulatory Framework**

6. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore and offshore facilities, and to contain such discharges. The authority to promulgate these regulations for non-transportation-related onshore facilities has been delegated to EPA by Executive Order 12777 (October 18, 1991).

7. The oil pollution prevention regulations at 40 C.F.R. Part 112 implement the requirements of Section 311(j)(1)(C) of the CWA, and set forth procedures, methods, equipment, and other requirements to prevent the discharge of oil from non-transportation-related onshore facilities into or upon, among other things, the navigable waters of the United States and adjoining shorelines. 40 C.F.R. § 112.1(a)(1).

8. The oil pollution prevention regulations at 40 C.F.R. Part 112 apply to, among other things, owners and operators of non-transportation-related onshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which due to their location, could reasonably be expected to discharge oil in quantities that may be harmful, as described in 40 C.F.R. § 110.3, into or upon the navigable waters of the United States or adjoining shorelines, and have an aboveground oil storage capacity of more than 1,320 U.S. gallons or a completely buried oil storage capacity greater than 42,000 U.S. gallons. 40 C.F.R. § 112.1(b).

9. 40 C.F.R. § 112.3 requires the owner or operator of a subject facility to prepare in writing and implement a Spill Prevention Control and Countermeasure Plan (SPCC Plan) in accordance with the requirements of 40 C.F.R. Part 112.

10. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as waters of the United States.

11. Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1) and 40 C.F.R. § 112.2 define “oil” as oil of any kind and in any form, including but not limited to: petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

12. Section 311(a)(6)(B) of the CWA, 33 U.S.C. § 1321(a)(6)(B) and 40 C.F.R. § 112.2, define “owner or operator” in the case of an onshore facility as any person owning or operating such onshore facility.

13. Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), and 40 C.F.R. § 112.2, define “person” as including an individual, firm, corporation, association, and a partnership.

14. Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10) and 40 C.F.R. § 112.2, define “onshore facility” as any facility of any kind located in, on, or under any land within the United States, other than submerged land.

15. Appendix A to 40 C.F.R. Part 112, Memorandum of Understanding between the Secretary of Transportation and EPA, defines “non-transportation-related” facility to include: oil production facilities including all equipment and appurtenances related thereto; oil refining facilities including all equipment and appurtenances related thereto; oil storage facilities, including all equipment and appurtenances related thereto; fixed bulk plant storage and terminal oil storage facilities; industrial, commercial, agricultural or public facilities which use and store oil; and waste treatment facilities, including in-plant pipelines, effluent discharge lines, and storage tanks.

16. EPA may assess a class II civil penalty against any owner, operator, or person in charge of any onshore facility who fails or refuses to comply with any regulations issued under Section 311(j) of the CWA, 33 U.S.C. 1321(j), under Section 311(b)(6)(A)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(A)(ii).

17. Section 311(b)(6)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(ii), as adjusted pursuant to 40 C.F.R. § 19.4, authorizes the Administrator of EPA to assess class II civil penalties up to \$22,324 per day for each day during which the violation continues, up to a maximum of \$323,081, for violations that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023.

### **General Allegations**

18. Respondent is a “person,” as defined by Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7) and 40 C.F.R. § 112.2.

19. Respondent owns and operates a chemical manufacturing facility located at 6901 Heege Road, in St. Louis, Missouri (the Facility).

20. Respondent is an “owner” and “operator” of the Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.

21. Respondent engages in drilling, producing, gathering, storing, processing, refining, transferring, using, distributing or consuming oil or oil products at the Facility.

22. The Facility is located on land within the United States is therefore an “onshore facility” as defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

23. The Facility is an industrial facility that uses and stores oil, and is therefore an onshore “non-transportation-related” facility within the meaning of 40 C.F.R. Part 112, Appendix A.

24. The Facility has an aboveground oil storage capacity of more than 1,320 U.S. gallons.

25. The Facility is located less than 100 feet from Shrewsbury Creek, a perennial waterway with continuous flow and a tributary of River des Peres. From the Facility, Shrewsbury Creek flows approximately 1.7 miles to River des Peres, a perennial waterway with continuous flow.

26. Shrewsbury Creek and River des Peres are each a relatively permanent “navigable water” of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

27. The oil that Respondent stores, handles, processes, and consumes at the facility could reasonably be expected to discharge to Shrewsbury Creek and River des Peres.

28. Respondent is an operator of a non-transportation-related onshore facility engaged in storing, processing, transferring, using or distributing oil and oil products, which, due to its location, could reasonably be expected to discharge oil in quantities that may be harmful as described in 40 C.F.R. Part 110 into or on the navigable waters or adjoining shorelines within the meaning of Section 311(j)(1) of the CWA, 33 U.S.C. § 1321(j)(1), and 40 C.F.R. § 112.1, and is therefore subject to the oil pollution prevention regulations at 40 C.F.R. Part 112.

29. Respondent is required to prepare and implement a SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112.

30. On November 10, 2021, EPA conducted an inspection of the Facility to determine Respondent’s compliance with the oil pollution prevention regulations at 40 C.F.R. Part 112 (the Inspection).

31. EPA emailed a copy of the Inspection report to Respondent on December 9, 2021.

### **Findings of Violation**

#### **Count 1**

#### **Failure to Prepare and Implement SPCC Plan**

32. The facts stated above are herein incorporated by reference.

33. 40 C.F.R. § 112.3 requires the owner or operator of a subject facility to prepare in writing and fully implement a SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112.

34. The Inspection revealed that Respondent did not have a SPCC Plan for the Facility.

35. Respondent’s failure to prepare in writing and fully implement a SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112 is a violation of 40 C.F.R. § 112.3.

**Count 2**  
**Failure to Provide Appropriate Containment**

36. The facts stated above are herein incorporated by reference.
37. 40 C.F.R. § 112.7(c) requires the owner or operator of subject facility to provide appropriate containment and/or diversionary structures or equipment to prevent a discharge.
38. The Inspection revealed that Respondent did not have secondary containment for bulk storage tanks,, piping, containers, and transfer areas.
39. Respondent's failures to provide appropriate containment to prevent a discharge are violations of 40 C.F.R. § 112.7(c).

**Count 3**  
**Failure to Use Manual Valves for Diked Areas**

40. The facts stated above are herein incorporated by reference.
41. 40 C.F.R. § 112.8(b)(2) requires the owner or operator of a subject facility to use valves of manual, open-and-closed design, for the drainage of diked areas.
42. The Inspection revealed that the lower tank battery's containment sump drainage area was not secured by a manual valve.
43. Respondent's failure to use manual valves for the drainage of diked areas is a violation of 40 C.F.R. § 112.8(b)(2).

**Count 4**  
**Failure to Contain Oil from Undiked Areas**

44. The facts stated above are herein incorporated by reference.
45. 40 C.F.R. § 112.8(b)(3) requires the owner or operator of a subject facility to design facility drainage systems from undiked areas with potential for a discharge to flow into ponds, lagoons, or catchment basins designed to retain oil or return it to the facility.
46. EPA's inspection revealed that the Facility's drainage systems from undiked areas were not designed to retain oil or return it to the Facility in the event of a discharge.
47. Respondent's failures to design drainage systems from undiked areas with a potential for a discharge to retain oil or return it to the Facility are violations of 40 C.F.R. § 112.8(b)(3).

**Count 5**  
**Failure to Provide Adequate Secondary Containment for Bulk Tanks**

48. The facts stated above are herein incorporated by reference.

49. 40 C.F.R. § 112.8(c)(2) requires the owner or operator of a subject facility to construct all bulk storage tank installations so that a secondary means of containment is provided for the entire capacity of the largest single container and sufficient freeboard to contain precipitation.

50. The Inspection revealed that the lower tank battery did have adequately sized containment, and did not have secondary containment for the garage, dock, upper tank battery, and for Tank #9 and Tank #23.

51. Respondent's failures to construct all bulk tank storage tank installations so that a secondary means of containment is provided for the capacity of the largest single container and sufficient freeboard to contain precipitation are violations of 40 C.F.R. § 112.8(c)(2).

**Count 6**  
**Failure to Provide Tank Overfill Protection**

52. The facts stated above are herein incorporated by reference.

53. 40 C.F.R. § 112.8(c)(8) requires the owner or operator of a subject facility to engineer or update each container in accordance with good engineering practice to avoid discharges by providing a device to prevent overfill using one of the measures provided in the regulation.

54. The Inspection revealed that the aboveground oil storage tanks did not have overfill protection.

55. Respondent's failures to engineer or update containers in accordance with good engineering practice to avoid discharges by providing a device to prevent overfill are violations of 40 C.F.R. § 112.8(c)(8).

**Count 7**  
**Failure to Provide Secondary Containment for Portable Containers**

56. The facts stated above are herein incorporated by reference.

57. 40 C.F.R. § 112.8(c)(11) requires the owner or operator of a subject facility to position or locate mobile or portable oil storage containers to prevent a discharge by furnishing a secondary means of containment sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation, as required by 40 C.F.R. § 112.8(c)(11).

58. The Inspection revealed that portable containers had not been positioned to prevent a discharge and secondary containment was not provided.

59. Respondent's failures to provide secondary containment for portable containers are violations 40 C.F.R. § 112.8(c)(11).

### **CONSENT AGREEMENT**

60. Respondent and EPA agree to the terms of this Consent Agreement/Final Order.

61. Respondent admits the jurisdictional allegations of this Complaint and Consent Agreement/Final Order and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement/Final Order.

62. Respondent neither admits nor denies the factual allegations asserted by the EPA in this Complaint and Consent Agreement/Final Order.

63. Respondent waives its right to contest any issue of fact or law set forth above, and its right to appeal this Consent Agreement/Final Order.

64. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement/Final Order without the necessity of a formal hearing and agree to bear their own costs and attorney fees incurred as a result of this action.

65. The parties consent to service of this Consent Agreement/Final Order electronically at the following e-mail addresses: barton.kasey@epa.gov (for Complainant) and schamberlain@thompsoncoburn.com (for Respondent). Respondent understands that the Consent Agreement/Final Order will become publicly available upon filing.

66. The undersigned representative of Respondent certifies that they are fully authorized to enter the terms and conditions of this Consent Agreement/Final Order and to execute and legally bind Respondent to it.

67. Respondent understands and agrees that this Consent Agreement/Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement/Final Order.

**Penalty Payment**

68. EPA has considered the appropriateness of the penalty pursuant to Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), and has determined that, based on substantiated ability to pay information, the appropriate penalty for the violations is \$7,519.

69. Respondent shall pay the penalty identified above within thirty (30) days of the effective date of the Final Order by certified or cashier's check made payable to "Treasurer, United States of America," with a transmittal that identifies the case name, facility address, and docket number CWA-07-2022-0054 to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

70. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk  
R7\_Hearing\_Clerk\_Filings@epa.gov; and

Kasey Barton, Attorney  
barton.kasey@epa.gov.

71. Respondent agrees that no portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement/Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

72. Interest on any late payment will be assessed at the annual interest rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on any overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs or interest.

**Effect of Settlement and Reservation of Rights**

73. Full payment of the penalty proposed in this Consent Agreement/Final Order shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.



74. The effect of settlement described above is conditional upon the accuracy of the Respondent's representations to the EPA, as memorialized in this Consent Agreement/Final Order.

75. Respondent certifies by the signing of this Consent Agreement that based on information and belief formed after reasonable inquiry it is presently in compliance with all requirements of Section 311 of the CWA and the oil pollution prevention regulations at 40 C.F.R. Part 112.

76. Nothing contained in this Consent Agreement/Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

77. Notwithstanding any other provision of this Consent Agreement/Final Order, the EPA reserves the right to enforce the terms of this Consent Agreement/Final Order by initiating a judicial or administrative action pursuant to Section 311 of the CWA, 33 U.S.C. § 1321, and to seek penalties against Respondent or to seek any other remedy allowed by law.

78. With respect to matters not addressed in this Consent Agreement/Final Order, the EPA reserves the right to take any enforcement action pursuant to the CWA and its implementing regulations, or any other available legal authority, including without limitation, the right to seek injunctive relief, penalties and damages.

79. The CWA allegations in this Consent Agreement/Final Order constitute "prior violations" as that term is used in EPA's Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act to determine Respondent's "prior history of violations."

### **General Provisions**

80. The Parties acknowledge that this Consent Agreement/Final Order is subject to public notice and comment required by Section 311(b)(6)(C)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(C)(i), and 40 C.F.R. § 22.45.

81. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement/Final Order shall be effective after signature by the authorized regional official and upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

82. The headings in this Consent Agreement/Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement/Final Order.

83. Respondent and Complainant agree that this Consent Agreement/Final Order may be signed electronically in part and counterpart.

**For the Complainant, United States Environmental Protection Agency Region 7:**

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David Cozad  
Director  
Enforcement and Compliance Assurance Division

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Date

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Kasey Barton  
Assistant Regional Counsel  
Office of Regional Counsel

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Date

**For the Respondent, Manor Chemical Company, Inc.:**

George A. Manor  
Signature

11/17/24  
Date

George Manor  
Printed Name

President  
Title

**FINAL ORDER**

Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Karina Borromeo  
Regional Judicial Officer

**Certificate of Service**

I certify a true and correct copy of the Complaint and Consent Agreement/Final Order was sent this day in the following manner to the addressees:

Copy emailed to representatives for Respondent:

Sara Chamberlain, Attorney  
Thompson Coburn LLP  
*schamberlain@thompsoncoburn.com*

Copy emailed to MoDNR:

Mr. John Hoke, Director  
Water Protection Program  
Division of Environmental Quality  
*john.hoke@dnr.mo.gov*

Copy emailed to representatives for Complainant:

Kasey Barton  
EPA Region 7 Office of Regional Counsel  
*barton.kasey@epa.gov*

Mark Aaron  
EPA Region 7 Enforcement and Compliance Assurance Division  
*aaron.mark@epa.gov*

Sarah Moreno  
EPA Region 7 Office of Regional Counsel  
*moreno.sarah@epa.gov*

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Signature