



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202 - 2733

SEP 15 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7014 0150 0000 2454 4951

Dr. Thomas Beershank
Vice President
2350 Double Creek Drive
Round Rock, Texas 78664

Re: Exflur Research Corporation, Docket No. CAA-06-2015-3355

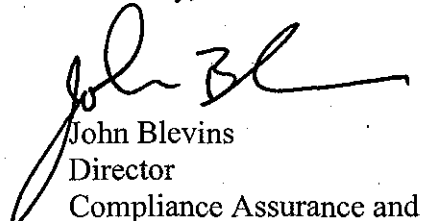
Dear Dr. Beershank;

Enclosed is a fully executed Administrative Order on Consent (AOC) in the matter referenced above for execution by Exflur Research Corporation.

As provided in the AOC, Exflur Research Corporation shall comply with the general duties to identify hazards, design and maintain a safe facility, and mitigate releases that do occur.

If you have any questions regarding this AOC, please contact Jeffrey Clay, Assistant Regional Counsel, at (214) 665-7297.

Sincerely,


John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6**

IN THE MATTER OF:

Exflur Research Corporation,
Roundrock, Texas

Respondent

Proceeding under Section
113 of the Clean Air Act

**ADMINISTRATIVE
ORDER ON CONSENT**

Docket CAA-06-2015-3303

I. INTRODUCTION

1. The following Findings are made and an Administrative Order on Consent issued pursuant to Section 113(a)(3) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3), for Respondent's failure to comply with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), with regard to an air release at Exflur Research Corporation's facility in Round Rock, Texas. The parties to this Administrative Order on Consent are the United States Environmental Protection Agency, Region 6 ("EPA" or "EPA Region 6") and Exflur Research Corporation ("Respondent").

2. This Administrative Order on Consent ("Order") is entered into upon mutual agreement by the parties. Accordingly, Respondent consents to and agrees not to contest EPA's jurisdiction to issue this Order or enforce its terms. Further, Respondent will not contest EPA's jurisdiction to either compel compliance with this Order in any subsequent enforcement proceedings, whether administrative or judicial, or to require Respondent's full compliance with the terms of this Order or impose sanctions for violations of this Order. Respondent consents to the terms of this Administrative Order on Consent.

3. This Order shall apply to and be binding upon Respondent, its agents, successors and assigns and upon all persons, contractors, and consultants acting under or for Respondent. No change in ownership or corporate or partnership status of Respondent will in any way alter the status of Respondent or its responsibilities under this Order.

II. STATUTORY AND REGULATORY AUTHORITY

4. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to (a) identify hazards which may

result from accidental releases of such substances using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (c) minimize the consequences of accidental releases that do occur. This section of the CAA is referred to as the "General Duty Clause."

5. The extremely hazardous substances identified pursuant to Section 112(r)(3) include specifically listed substances ("Regulated Substances") or "other extremely hazardous substances."

6. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes EPA to issue compliance orders for violations of the Act, including violations of Section 112(r), 42 U.S.C. § 7412(r). A copy of the order must be sent to the relevant State air pollution control agency. An order relating to a violation of Section 112 of the CAA can take effect immediately upon issuance.

7. The authority to issue orders pursuant to Section 113(a)(3) of the CAA has been delegated to EPA Region 6's Regional Administrator, and in turn to the Director of EPA Region 6's Compliance Assurance and Enforcement Division.

III. EPA REGION 6 FINDINGS

8. Exflur Research Corporation owns and operates a laboratory and manufacturing facility in Round Rock, Texas ("Facility"). The Facility includes three buildings which house laboratory space, warehouse, chemical storage vessels and other production equipment related to the manufacturing of specialty fluorine-containing compounds.

9. Exflur Research Corporation is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

10. The Facility is a "stationary source" as that term is defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

11. The Facility is primarily engaged in research, production, processing, storing, and handling of chemicals associated with manufacturing specialty fluorine-containing materials and their by-products.

12. The morning of September 18, 2014, the Respondent discovered a visible leak in the form of a vapor cloud coming from Building 3 at the Facility. The source of the vapor was observed coming from a 30 gallon cylinder of perfluorosuccinoyl fluoride, and later confirmed to be the result of a leaking Apollo 32-100 ball valve. The ball valve was found to contain a breached copper gasket.

13. In the context of the incident that occurred on September 18, 2014, perfluorosuccinoyl fluoride is a hazardous substance due to its toxicity; however, a by-product of perfluorosuccinoyl fluoride -- hydrofluoric acid -- is produced when

perfluorosuccinoyl fluoride reacts with moisture in ambient air and is a regulated substance or extremely hazardous substances due to its toxicity.

14. Respondent produced, processed, stored, or handled regulated substances or other extremely hazardous substances at the Facility.

15. The Respondent determined that the valve arrangement on the perfluorosuccinoyl fluoride cylinder (which was an adapted propane cylinder) was inadequate to prevent releases.

16. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to (a) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (c) minimize the consequences of accidental releases that do occur.

17. EPA finds that Exflur Research Corporation is subject to the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) and that Respondent violated one or more of those general duties on February 3, 2014 at the Facility.

IV. ORDER

18. Accordingly, pursuant to Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), it is hereby agreed that Respondent Exflur Research Corporation, which has consented to the terms of this Order, shall comply with the general duties to identify hazards, design and maintain a safe facility, and mitigate releases that do occur as follows:

- a. Identify and engage a third-party health and safety expert to perform a hazard analysis on Respondent's process activities generally. The expert shall be recognized as an expert on chemical safety and shall prepare a written report analyzing process practices in place at Respondent's facility. The report shall also identify applicable standards associated with each Facility process and the manner in which other parties have implemented practices to satisfy those standards. The requirements of this paragraph shall be completed and the Report submitted to Respondent within 180 days of the effective date of this Order.
- b. The Respondent will provide a copy of the safety expert's report and recommendations to EPA within 14 days after the Respondent receives the report.

- c. The Respondent will provide to EPA within 45 days after Respondent receives the chemical safety expert's report a plan (such as revisions to Standard Operating Procedures) that shows how practices recommended by the chemical safety expert will be implemented by the Respondent. If Respondent chooses not to implement the recommendations of the expert then the Respondent will explain in writing why they have chosen to not implement the expert's recommendation.
- d. EPA acknowledges that Exflur Research Corporation may have already instituted some of these requirements.
- e. All work and certifications required under this Administrative Order must be completed within the durations specified in this Administrative Order on Consent.

19. Notifications:

- a. Submissions required by this Order shall be in writing and shall be mailed to the following addresses with a copy also sent by electronic mail:

U.S. Environmental Protection Agency
Region 6 (Mail Code: 6EN-AA)
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Donald M. Smith
smith.donald-m@epa.gov

- b. EPA will send all written communications to the following representative(s) for Respondent:

Dr. Thomas Beershank
Vice President
Exflur Research Corporation
2350 Double Creek Drive
Round Rock, Texas 78664

20. All documents submitted to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B and determined by EPA to merit treatment as confidential business information ("CBI") in accordance with applicable law.

V. GENERAL PROVISIONS

21. The provisions of this Order shall apply to and be binding upon Exflur Research Corporation its officers, directors, agents, and employees.

22. The provisions of this Order shall be transferrable to any other party, upon sale or other disposition of the corporation. Upon such action, the provisions of this Order shall then apply to and be binding upon any new owner/operator, its officers, directors, agents, employees, and any successor(s) in interest.

23. Nothing in this Order shall be construed to affect EPA's authority under Section 114, or any other section, of the Act, 42 U.S.C. § 7414.

24. Nothing contained in this Order shall affect the responsibility of Exflour Research Corporation to comply with all applicable Federal, State, or local laws or regulations, including Section 303 of the Act, 42 U.S.C. § 7603.

25. Any and all information required to be maintained or submitted pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 et seq., because it seeks to collect information from specific individuals or entities to assure compliance with this administrative action.

26. This Order is not intended to be nor shall it be construed to be a permit. Further, the parties acknowledge and agree that EPA's approval of this Order does not constitute a warranty or representation that requirements provided hereunder will meet the requirements of the General Duty Clause. Compliance by Respondent with the terms of this Order shall not relieve Respondent of their obligations to comply with the CAA or any other applicable local, State, or federal laws and regulations.

27. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this Order. This Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which EPA has under any statutory, regulatory, or common law authority of the United States.

28. This Order does not resolve any civil or criminal claims of the United States for the violations alleged in this Order; nor does it limit the rights of the United States to obtain penalties or injunctive relief under the CAA or other applicable federal law or regulations.

29. Respondent neither admits nor denies any of the factual or legal determinations made in this Order, other than Respondent specifically admits EPA's jurisdiction to issue and enforce this Order. Respondent waives its right to contest EPA's jurisdiction to issue or enforce this Order. Respondent waives its right to contest the terms of this Order. The Parties have entered into this Order in good faith without trial or adjudication of any issue of fact or law. Respondent consents to the terms of this Order.

30. Respondent waives any right to judicial review of this Administrative Order.

31. The parties shall bear their own costs and fees in this action, including attorney's fees.

VI. FAILURE TO COMPLY

32. Failure to comply with this Order may result in an enforcement action for appropriate injunctive relief and penalties pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b) or, in appropriate cases, criminal penalties.

VII. ENFORCEMENT

33. This Administrative Order does not in any way impair EPA's rights to enforce the Clean Air Act..

34. Be advised that issuance of this Order does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law in this or any other matter.

VII. EFFECTIVE DATE

35. This Order shall become effective upon the date of signature by EPA.

IT IS SO AGREED:

DATE: 8/26/15

BY: Thomas R. Bink
Exfluor Research Corporation

IT IS SO ORDERED:

DATE: 9.15.15

BY: John Blevins
John Blevins
Director, Compliance Assurance and
Enforcement Division
U. S. Environmental Protection Agency
Region 6

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Administrative Order on Consent (AOC) was placed in the United States Mail, to the following by the method indicated:

Dr. Thomas Beershank
Vice President
Exfluor Research Corporation
2350 Double Creek Drive
Round Rock, Texas 78664

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: # _____

Date: _____

U.S. EPA, Region 6
Dallas, Texas