



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

April 12, 2022

Mr. Sean Bressler, Vice President
Fleet Maintenance, Safety and Procurement
XPO Logistics Freight, Inc.
2211 Old Earhart Road
Ann Arbor, Michigan 48105
Sean.Bressler@xpo.com

Re: Executed Consent Order; DEP v. XPO Logistics Freight, Inc
OGC Case No.: 22-0467
Facility: XPO Logistics Freight, Inc., Facility No. 9804079
285 Industrial Park, Monticello (Jefferson County), Florida 32344

Dear Mr. Bressler:

Please find enclosed the executed Consent Order that addresses the resolution of petroleum storage tank violations at XPO Logistics Freight, Inc, located at 285 Industrial Park, Monticello (Jefferson County), Florida 32344.

Please review the document, including the "Respondent's Performance" section on page 2 for directions to satisfy the conditions of the Consent Order.

Your cooperation in resolving this matter is appreciated. If you have questions, please contact Mark Gillman at (850) 595-0586 or by email at mark.gillman@floridadep.gov for questions regarding this action or future storage tank compliance at your facility.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr".

Elizabeth Mullins Orr
Director
Northwest District

EMO/mg

Enclosure: Short Form Consent Order

cc: Mr. Rodney Lamb, East Division Director of Safety, Rodney.Lamb@xpo.com

Mr. Mike Gardner, Director of Safety, Michael.Gardner@xpo.com

Edwin French, Leon County Growth & Environmental Management,
French@Leoncountyfl.gov



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
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Ron DeSantis
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March 30, 2022

Mr. Sean Bressler, Vice President
Fleet Maintenance, Safety and Procurement
XPO Logistics Freight, Inc.
2211 Old Earhart Road
Ann Arbor, Michigan 48105
Sean.Bressler@xpo.com

SUBJECT: Department of Environmental Protection v. XPO Logistics Freight, Inc.
OGC File No.: 22-0467
Facility: XPO Logistics Freight, Inc., Facility No. 9804079
285 Industrial Park, Monticello (Jefferson County), Florida 32344

Dear Mr. Bressler:

The State of Florida Department of Environmental Protection ("Department") finds that XPO Logistics Freight, Inc. ("Respondent") failed to (1) designate release detection monitoring points for integral piping, in violation of Rule 62-762.501(1)(b)7, Florida Administrative Code ("F.A.C."); (2) provide all records required to be kept for three years at the time of the inspection or upon five business days of receipt of the Department's or county's request, in violation Rule 62-762.711(2), F.A.C.; (3) generate the system's monthly alarm history, sensor status, and testing systems from the automatic tank gauge system, in violation of Rule 62-762.601(2)(b), F.A.C.; (4) provide access to the system's dispenser sumps for inspection, in violation of Rule 62-762.101(5), F.A.C.; (5) provide access to financial responsibility records at the time of the inspection or within five business days of receipt of the Department's or county's request, in violation of Rule 62-762.101(5); and (6) display the system's registration placard in plain view in the office, kiosk, or another suitable location where it can be viewed by the fuel delivery truck driver, in violation of Rule 62-762.401(4)(i). F.A.C.

Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violations. These actions have since been completed. However, due to the nature of the violations, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$9,250.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$9,750.00. The civil penalties are apportioned as follows: \$3,000.00 for violation of Rule 62-762.501(1)(b)7, F.A.C. and section 403.121(3)(g), Florida Statutes ("F.S."); \$750.00 for violation of Rule 62-762.711(2), F.A.C. and section 403.121(4)(f), F.S.; \$3,000.00 for violation of Rule 62-762.601(2)(b), F.A.C. and section 403.121(3)(g), F.S.; \$1,000.00 for violation of Rule 62-762.101(5), F.A.C. and section 403.121(5), F.S.; \$750.00 for violation of Rule 62-762.101(5), F.A.C. and section 403.121(4)(f), F.S.; and \$750.00 for violation of Rule 62-762.401(4)(i), F.A.C. and section 403.121(4)(f), F.S.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at the Northwest District by **April 15, 2022**. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Sean Bressler:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S. on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$9,750.00 in full by **April 29, 2022**.
- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number

assigned to this Order and the notation “Water Quality Assurance Trust Fund.” Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties’ signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department’s offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Mark Gillman by phone at (850) 595-0586 or by email at mark.gillman@floridadep.gov.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Elizabeth Mullins Orr
District Director
Northwest District

FOR THE RESPONDENT:

I, Rodney Dean Lamb [Type or Print Name], HEREBY ACCEPT
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By:

[Signature]

Date:

4-12-2022

Title:

[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 12th day of April, 2022, in ORANGE
County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Elizabeth Mullins Orr

Elizabeth Mullins Orr
District Director
Northwest District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk

April 12, 2022

Date

Attachments: Notice of Rights
Inspection Report
Penalty Computation Worksheet

cc: Mr. Mike Gardner, Director of Safety, Michael.Gardner@xpo.com
Mr. Jeff Sexten, Manager EHS, Jeff.Sexten@xpo.com

Final clerked copy furnished to:

Lea Crandall, Agency Clerk, Lea.Crandall@dep.state.fl.us

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



Florida Department of Environmental Protection
Twin Towers Office Bldg. 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400
Division of Waste Management
Petroleum Storage Systems
Storage Tank Facility Routine Compliance Site Inspection Report

Facility Information:

Facility ID: 9804079 County: JEFFERSON Inspection Date: 05/06/2021
Facility Type: C - Fuel user/Non-retail
Facility Name: XPO LOGISTICS FREIGHT, INC- NTH # of inspected ASTs: 1
285 INDUSTRIAL PARK USTs: 0
MONTICELLO, FL 32344-6371 Mineral Acid Tanks: 0
Latitude: 30° 30' 11.2626"
Longitude: 83° 52' 57.9061"
LL Method: DPHO

Inspection Result:

Result: Major Out of Compliance

Signatures:

TKLNEM - LEON CNTY DEPT OF GROWTH & ENVIRONMENTAL MGMT (850) 606-1300

Storage Tank Program Office and Phone Number

Edwin C. French

Jason Carter

Inspector Name

Representative Name

No Signature

Inspector Signature

Representative Signature

Principal Inspector

LEON CNTY DEPT OF GROWTH &
ENVIRONMENTAL MGMT

XPO Logistics

Owners of UST facilities are reminded that the Federal Energy Policy Act of 2005 and 40 CFR 280 Subpart J requires Operator Training at all facilities by October 13, 2018. For further information please visit:
<https://floridadep.gov/waste/permitting-compliance-assistance/content/underground-storage-tank-operator-training>

Financial Responsibility: **Overdue**

Financial Responsibility: INSURANCE

Insurance Carrier: ACE

Effective Date: 04/01/2018

Expiration Date: 04/01/2019

Violations:

Type: Violation
Significance: SNC-B
Rule: 62-762.501(2)(e), 62-762.501(2)(e)1., 62-762.501(2)(e)2., 62-762.501(2)(e)2.a., 62-762.501(2)(e)2.b., 62-762.501(2)(e)2.c., 62-762.501(2)(e)2.d., 62-762.501(2)(e)3.
Violation Text: Failure to provide approved overfill protection for shop fabricated tank systems.
Explanation: A high level (at 90 percent tank capacity) warning alarm that shall be registered in accordance with subsection 62-762.851(2), F.A.C., and shall perform an operability test annually at intervals not exceeding 12 months to ensure proper operation; No annual operability test were provided for the audible overfill alarm during the inspection.
Corrective Action: Provided annual operability test for the audible overfill alarm during the inspection.
Provide test results for the past three years to this department.

Violation Photos

Added Date 05/11/2021

Audible overfill alarm



Type: Violation
Significance: Minor
Rule: 62-762.501(1)(b)7.
Violation Text: Secondary containment does not direct a release to a monitoring point for shop fabricated tank systems.
Explanation: No proof of monitoring of the underground piping run was provided during the inspection.
Corrective Action: Provide in writing the method of release detection monitoring for the underground piping run and at least three years of records showing it has been monitored.

Violation Photos

Added Date 05/11/2021

Underground piping



Type: Violation
Significance: SNC-B
Rule: 62-762.601(1)(d), 62-762.601(1)(e)
Violation Text: Release detection, including visual inspections not being conducted monthly (not to exceed 35 days) for shop fabricated tank systems. For electronically monitored sumps, visual inspections not conducted every 6 months.
Explanation: Monthly visual inspections of the aboveground tank (AST) system were not provided during the inspection.
Corrective Action: Provide the last three years of monthly visual inspections of the AST system to this department.

Type: Violation
Significance: Minor
Rule: 62-762.711(2), 62-762.711(2)(a), 62-762.711(2)(b), 62-762.711(2)(c), 62-762.711(2)(d)
Violation Text: Records requiring 3 year documentation period not kept by facility.
Explanation: Repair, operation, annual test results, release detection results, and maintenance records were not provided during the inspection.
Corrective Action: Provide repair, operation, annual test results, release detection results, and maintenance records for the last two years to this department.

Type: Violation
Significance: SNC-B
Rule: 62-762.601(2), 62-762.601(2)(a), 62-762.601(2)(a)1., 62-762.601(2)(a)2., 62-762.601(2)(a)3., 62-762.601(2)(a)4., 62-762.601(2)(a)5., 62-762.601(2)(a)6., 62-762.601(2)(a)7., 62-762.601(2)(a)8.
Violation Text: Release detection requirements not met for shop fabricated storage tanks with secondary containment.
Explanation: Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of water, other than condensate, or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-762.431, F.A.C. During the inspection, no documentation was provided to show that the underground piping run is being monitored for release detection.
Corrective Action: Provide proof showing the underground piping is being monitored for release detection.

Type: Violation
Significance: Minor
Rule: 62-762.701(4)(b), 62-762.701(4)(b)1., 62-762.701(4)(b)2.
Violation Text: Spill containment, sumps, and interstices not accessible. Water/regulated substance not timely removed for shop fabricated storage tank systems. Petroleum contact water not properly managed.
Explanation: Access to the dispensers and dispenser sumps was not provided during the inspection.
Corrective Action: Provide access to the dispensers and dispenser sumps to this department.
Violation Photos



Type:	Violation
Significance:	Minor
Rule:	62-762.601(7)
Violation Text:	Shop fabricated storage tank system release detection devices not tested annually.
Explanation:	Annual operability test results for the line leak detector, audible overfill alarm, or the automatic tank gauge and associated sensors was not provided during the inspection.
Corrective Action:	Provide three years of annual operability test results for the line leak detector, audible overfill alarm, or the automatic tank gauge and associated sensors to this department.

Type:	Violation
Significance:	Minor
Rule:	62-762.711(1)
Violation Text:	Required records not available within 5 working days notice.
Explanation:	No proof financial responsibility, no monthly visual checklists, no current placard, and no annual test results were provided during the inspection.
Corrective Action:	Provide proof financial responsibility, monthly visual checklists, proof of current placard posted at facility, and annual test results for the past two years to this department.

Type:	Violation
Significance:	SNC-B
Rule:	62-762.401(5)
Violation Text:	Motor fuel being deposited into storage tank at facility where valid registration placard is not displayed.
Explanation:	Current placard was not posted at the facility.
Corrective Action:	Post copy of current placard at the facility.

Type:	Violation
Significance:	SNC-B
Rule:	62-762.421(2)
Violation Text:	Failure to maintain and demonstrate financial responsibility.
Explanation:	Proof of pollution liability insurance was not provided during the inspection.
Corrective Action:	Provide proof of current pollution liability insurance to this department.

Site Visit Comments

05/06/2021

Leon County on site to perform compliance inspection.

Inspection Comments

05/06/2021

Performed inspect on: 5/6/21

Placard: Not posted

FR: Not provided

CFR: Not provided

Monthlys: Not provided

Annual Operability: No annual test for LD's, underground piping, ATG, audible alarm.

Overfill: Audible alarm

Anti-siphon: in place

Tank1: OK

Containment Area: NA

Spill Buckets: OK

Dispensers/Hoses: No access provided

Leak Detection: monthly visual, electronic interstice monitoring (basin alarm), DW.

No FR

Placard not posted

No monthly's

No annual test for LD's, underground piping, ATG, audible alarm.

No release detection for underground piping


No access to either dispenser

05/11/2021

Leon County did not save facility representative signature. No signature.

PENALTY COMPUTATION WORKSHEET
SUBJECT TO FINAL APPROVAL

Violator's Name:	XPO Logistics Freight, Inc. - NTH (Fac No 9804079)						
Address:	285 Industrial Park, Monticello (Jefferson Cnty), Florida 32344						
Name of Department Staff Responsible for the Penalty Computations:	Mark Gillman						
Date:	January 31, 2022						
<u>PART I - PENALTY DETERMINATIONS</u>							
Violation Type and description	RCRA Guideline	ELRA Schedule	ENVIRON- MENTAL Harm	Extent of Dev.	Matrix or ELRA Amount	Adjust-ments	Total
^I Rule 62-762.501(2)(e)4., F.A.C. - Failure to have an annual operability test of the overfill device in 2019.	N/A	Section 403.121(4)(d), F.S. - Failure to conduct required monitoring or testing.	N/A	N/A	N/A	\$0.00	\$3,000.00
^{II} Rule 62-762.501(1)(b)7, F.A.C. - Failure to designate release detection monitoring for the system's piping.	N/A	Section 403.(3)(g), F.S. - Failure to conduct or maintain required release detection.	N/A	N/A	N/A	\$0.00	\$3,000.00
^{III} Rule 62-762.601(1)(d), F.A.C. - Failure to conduct monthly visual release detection of all portions of the system that can be visually inspected from 10/2018 - 12/2020.	N/A	Section 403.(3)(g), F.S. - Failure to conduct or maintain required release detection.	N/A	N/A	N/A	\$0.00	\$3,000.00
^{IV} Rule 62-762.711(2), F.A.C. - Failure to maintain repair, operation, annual test results, maintenance, and release detection records available for inspection.	N/A	Section 403.121(4)(f), F.S. - Failure to submit or maintain required documentation.	N/A	N/A	N/A	\$0.00	\$750.00

V	Rule 62-762.601(2), F.A.C. - Failure to conduct release detection of underground piping from 10/2018 to the present.	Section 403.(3)(g), F.S. - Failure to conduct or maintain required release detection.	N/A	N/A	N/A	\$0.00	\$3,000.00
VI	Rule 62- 762.701(4)(b)1., F.A.C. - Failure to provide access to the dispenser sumps at the time of the inspection.	Section 403.121(5), F.S. - Failure to comply with any other departmental regulatory stature, regulation or requirement.	N/A	N/A	N/A	\$0.00	\$1,000.00
VII	Rule 62-762.601(7), F.A.C. - An annual operabilityFailure to provide annual tests of the authomatic tank gauge for 2019.	Section 403.121(4)(d), F.S. - Failure to conduct required monitoring or testing.	N/A	N/A	N/A	\$0.00	\$3,000.00
VIII	Rule 62-762.711(1), F.A.C. (Re-evaluated and re-cited - Rule 62- 762.101(5), F.A.C. - Failure to provide required records at the time of inspection with 5 days notice.	Section 403.121(4)(f), F.S. - Failure to submit or maintain required documentation.	N/A	N/A	N/A	\$0.00	\$750.00
IX	Rule 62-762.401(5), F.A.C. (Re-evaluated and re-cited - Rule 62- 762.401(4)(i), F.A.C.) Placard was current but not posted. - Failure to display placard in plain vew in the office, kiosk, or another suitable location where it can be viewed by the fuel delivery truck driver	Section 403.121(4)(f), F.S. - Failure to submit or maintain required documentation.	N/A	N/A	N/A	\$0.00	\$750.00
Subtotals:						\$0	\$18,250.00
Total Penalties for all violations:						\$18,250.00	
Department Costs:						\$500.00	
 Elizabeth Mullins Orr, District Director						2/17/2022	Date
MaryAlice McElheney Assistant Deputy Secretary, Regulatory							Date
Peer Reviewed by Division: Yes () No (X)							

PART II - MULTI-DAY PENALTIES AND ADJUSTMENTS

<u>Adjustments</u>	<u>Amount</u>
Good faith prior to discovery: _____	\$0.00
Justification: _____	
Good faith after discovery: _____	\$0.00
Justification: _____	
History of non-compliance: _____	\$0.00
Justification: _____	
Economic benefit of non-compliance: _____	
<p>Economic Benefit was calculated to be insignificant and will not be added to the penalties at this time.</p> <p>Refer to descriptions and calculations below.</p>	\$0.00
Justification: _____	
Ability to pay: _____	\$0.00
Justification: _____	
Total Adjustments:	\$0.00

ECONOMIC BENEFIT CALCULATIONS

EB = AC(1-T) + DC(I) =

AC = Avoided Costs – expenditures that will never be incurred for violator's noncompliance.

DC = Delayed Costs – expenditures deferred by violator's failure to comply.

T = Corporate Tax Rate = 21% (in 2020)

I = Interest rate charged by IRS for delinquent accounts = 4% (in 2020)

Avoided Costs (AC) and/or Delayed Costs (DC) for each Violation:

Add description including assumptions used for cost calculations.

Count	Issue	Avoided Cost	Corporate Tax Rate 2020=21% T	Delayed Costs	DC	Interest Rate for Delinquent Accounts 2020=4% I	Economic Benefit AC(1-T) + DC(I)	# of Components or Occurrences	TOTAL
I	Annual operability testing	= \$50	0.79	\$50	0.04	=	\$41.50	1	\$41.50
II	Release detection for piping	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00
III	Visual release detection	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00
IV	Record maintenance	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00
V	Underground piping monitoring	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00
VI	Access to equipment during inspection	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00
VII	Annual operability testing for ATG	= \$50	0.79	\$50	0.04	=	\$41.50	1	\$41.50
VIII	Maintenance of facility records during inspection	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00
IX	Posting registration placard in view	= \$0	0.79	\$0	0.04	=	\$0.00	1	\$0.00

Violations with the exception of Counts I and VII, the facility would not necessarily incur a cost for failure to meet the requirements of the rules. The remaining counts are based on maintenance requirements that are typically carried out by the facility without hiring a contractor.

TOTAL: \$83.00

MULTI-DAY PENALTIES

Number of days adjustment factor(s) to be applied:

Justification: _____ \$0.00

Or

Number of days matrix amount is to be multiplied:

Justification: _____ \$0.00

Comments:

PART III - OTHER ADJUSTMENTS MADE AFTER MEETING WITH THE RESPONSIBLE PARTY

ADJUSTMENT

Dollar Amount

Relative merits of the case:

Resource Considerations:

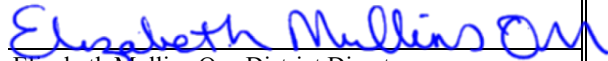
Other Justification:

I am requesting a reduction of the approved penalty based on compliance information received from the facility during my case review, which includes visual release detection records and system testing done by qualified contractors. The information provided has closed the violations in counts 1, 3, and 7 as they were cited and characterized in the original penalty in Part I of this document. The removal of those counts reduces the final penalty to \$9,250.

My facility contact has stated that the company wishes to resolve the case by a consent order. If the reduction is approved, I will draft a long-form consent order which will include corrective actions for the several outstanding violations and payment of a penalty of \$9,250.00 plus \$500.00 in department costs. The majority of the violations (including the ones resolved) are linked to not providing records or designating a staff person to provide access to all equipment and records within the 5-day notice in the rule. The penalties for those failures are retained as original counts and would be included in the proposed CO.

3/11/22

Date


Elizabeth Mullins Orr, District Director