



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FILED

2011 SEP 12 AM 11:47

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK

DOCKET NO: CAA(112r)-09-2011-0008
This ESA is issued to: Uni-Kool Partners, Inc., 2210 E. 24th Street, Yuma, AZ 85364
For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Uni-Kool Partners, Inc., 2210 E. 24th Street, Yuma, AZ 85364

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region IX, by its duly delegated official, Jane Diamond, Superfund Director, and Uni-Kool Partners, Inc. (Respondent) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On June 21, 2011, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

1. Respondent was required to estimate population that would be included in the distance to the endpoint in the RMP based on a circle with the point of release at the center as required by Section 112(r)(7) of the Act and 40 C.F.R. § 68.30(a). Respondent failed to include estimated population for the Yuma area, but instead used information for Monterey County, CA.
2. Respondent was required to document information pertaining to the technology of the process including the maximum intended inventory as required by Section 112(r)(7) of the Act and 40 C.F.R. § 68.65(c)(1)(iii). Respondent listed a maximum intended inventory of 5,204 pounds of anhydrous ammonia in their RMP, rather than 12,000 pounds observed at the inspection.
3. Respondent was required to establish and implement written procedures to maintain the on-going integrity of the process equipment as required by Section 112(r)(7) of the Act and 40 C.F.R. § 68.73(a-b). Respondent did not have documentation showing implementation of a mechanical integrity program at the time of the inspection.
4. Respondent was required to certify that the stationary source 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 Section 112(r)(7) of the Act and 40 C.F.R. § 68.79(a). Respondent had not conducted or documented a three-year compliance audit.
5. Respondent was required to have appropriate mechanisms in place to notify emergency responders when there is a need for a response as required by Section 112(r)(7) of the Act and 40 C.F.R. § 68.90(b)(3). Respondent did not have an emergency call-down list. Employees interviewed were not aware of any calls that needed to be made in the event of a release other than 911.
6. Respondent was required to review and update the RMP for the five-year update and submit it to EPA as required by Section 112(r)(7) of the Act and 40 C.F.R. § 68.190(a). Respondent was 45 days late in submitting their RMP five-year update.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, economic benefit, and other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$4080**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C §7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own attorney's fees and costs, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed above and has sent a cashier's check or certified check (payable to the Treasurer, United States of America) in the amount of \$4080 in payment of the full penalty amount to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The check should reference Respondent's name and a copy of this ESA must be included with the check. This original ESA and a copy of the check must be sent by certified mail to:

Mary Wesling (SFD-9-3)
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT - Uni-Kool Partners Inc


Signature: Ronald A. Rojas

Date: 8-25-11

Name (print): Ronald Rojas

Title (print): Manager

FOR COMPLAINANT:

for 

Jane Diamond
Superfund Director
U.S. EPA Region IX

Date: 8 September 2011

It is hereby ORDERED that this ESA be entered and Respondent pay the above penalty.



Steven L. Jawgiel
Chief Judicial Officer
U.S. EPA Region IX

Date: 09/11/11

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement against **Uni-Kool Partners, Inc (Docket #: CAA(112r)-09-2011-0008)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

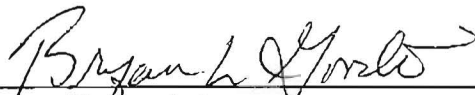
A copy was mailed via CERTIFIED MAIL to:

Mr. Bob Bellew
c/o Ron Rojas, Manager
Uni-Kool Partners, Inc.
2210 E. 24th Street
Yuma, AZ 85364

CERTIFIED MAIL NUMBER: 7005-2570-0001-6436-7904

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Michael Hingerty, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

Date 9/12/11