



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

FILED

DOCKET NO: CAA (112r)-09-2011-00 25

2011 SEP 30 AM 8:43

This ESA is issued to: **Glacier Cold Storage, LTD**  
6820 Wilson Ave  
Los Angeles, CA 90001

U.S. EPA REGION IX  
REGIONAL HEARING CLERK

For: Violation of Section 112(r)(7) of the Clean Air Act.  
At: Glacier Cold Storage, LTD - 2233 E. Jesse Street, Los Angeles, CA 90023

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 Glacier Cold Storage, LTD ("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). EPA has 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) **Prevention Program - Safety Information.** Failed to provide adequate information pertaining to the equipment in the process, specifically, Piping and instrument diagrams (P&ID) as required by Section 112(r)(7) of the Clean Air Act (the Act) and 40 C.F.R. § [68.65(d)(1)(ii)].
- 2) **Prevention Program - Safety Information.** Failed to demonstrate that equipment complies with recognized and generally accepted good engineering practices as required by Section 112(r)(7) of the Act and 40 C.F.R. § [68.65(d)(2)].
- 3) **Prevention Program - Process Hazard Analysis (PHA).** Failed to establish a system to promptly address the facility's findings and recommendations; and assure that the recommendations are resolved in a timely manner and documented as required by Section 112(r)(7) of the Clean Air Act (the Act) and 40 C.F.R. § [68.67(e)].
- 4) **Prevention Program - Operating procedures.** Failed to certify annually that the operating procedures are current and accurate and those procedures have been reviewed as often as necessary as required by Section 112(r)(7) the Act and 40 C.F.R. § [68.69(c)].
- 5) **Prevention Program -Training.** Failed to demonstrate that refresher training had been provided at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. Failed to ascertain and document in records that each employee involved in operating a process has received and understood the training as required by Section 112(r)(7) of the Act and 40 C.F.R. §§ [68.71(b) & [68.71(c)].
- 6) **Prevention Program - Mechanical Integrity.** Failed to assure that maintenance materials, spare parts and equipment were suitable for the process application for which they would be used as required by Section 112(r)(7) of the Act and 40 C.F.R. § [68.73(f)(3)].
- 7) **Prevention Program - Compliance audits.** Failed to certify that the facility 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. Failed to promptly determine and document an appropriate response to each of the findings of the audit and document that deficiencies had been corrected as required by Section 112(r)(7) of the Act and 40 C.F.R. §§ [(68.79(a)) & (68.79(d)].

## 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, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$5,400.00**.

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 have sent an **Online Payment through the Department of Treasury: [WWW.PAY.GOV](http://WWW.PAY.GOV)** (Enter SFO 1.1 in search field. Open form and complete required fields) **or alternatively send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$5,400.00** 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 or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the Cincinnati Finance Center.

This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Karen Henry/Sheila Suarez (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.

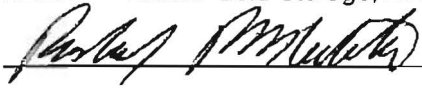
If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an 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 - Glacier Cold Storage, LTD

Signature:



Date:

9-15-11

Name (print): Richard McCutcheon

Title (print): Vice President

FOR COMPLAINANT:

Jane Diamond  
Superfund Director  
U.S. EPA Region IX

Date:

9/29/11

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

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

Date:

09/29/11

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order against **Glacier Cold Storage, LTD (Docket #: EPCRA-09-2011-25)** 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:

Richard McCutcheon, Vice President  
Glacier Cold Storage, LTD  
6820 Wilson Ave  
Los Angeles, CA 90001

**CERTIFIED MAIL NUMBER:** 7010-1060-0002-0234-9234

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

9/30/11  
Date



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

CERTIFIED MAIL NO.: 7010 1060 0002 0234 9230  
Return Receipt Requested

SEP 30 2011

Richard McCutcheon  
*Glacier Cold Storage, LTD*  
6820 Wilson Ave  
Los Angeles, CA 90001


Re: Glacier Cold Storage, LTD, Los Angeles, CA  
RMP Facility ID#: 1000 0016 0032

Dear Mr. McCutcheon:

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act Section 112(r)(7) by Glacier Cold Storage, LTD, located at 6820 Wilson Ave, Los Angeles, CA 90001. The violation involves failure to resubmit or update Risk Management Plan information as required by 40 CFR Part 68.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the Clean Air Act Section 112(r)(7) requirements, please feel free to contact Karen Henry of my staff at (415) 972-3844.

Sincerely,



Jane Diamond  
Director, Superfund Division

Enclosures