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**U.S. EPA REGION 4
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2024-0300(b)

**This ESA is issued to: Blue Bell Creameries, L.P.
1101 South Blue Bell Road
P.O. Box 1807
Brenham, Texas 77834-1807**

**for violating 40 C.F.R. § 68.65(d)(2), 40 C.F.R. § 68.67(e), 40 C.F.R. § 68.67(f),
40 C.F.R. § 68.75, 40 C.F.R. § 68.79(a), and Section 112(r)(7) of the Clean Air Act.**

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 4, Director of the Enforcement and Compliance Assurance Division (Complainant), and by Blue Bell Creameries, L.P. (Respondent), pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 C.F.R. §§ 22.13(b) and 22.18.

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted on March 27, 2023, at the Respondent's facility located at 423 N. Norton Ave., Sylacauga, Alabama 35150, the EPA alleges that the Respondent violated the Act's Section 112(r)(7), Chemical Accident Prevention Provisions, 42 U.S.C. § 7412(r)(7), when at the time of inspection, Respondent did not provide evidence that:

1. It documented that the equipment complies with recognized and generally accepted good engineering practices (RAGAGEP), as required by 40 C.F.R. § 68.65(d)(2) when,
 - a. One small segment of piping in the machine room appeared to have degradation of protective coating/paint peeling/failure and some surface corrosion. The Institute of Ammonia Refrigeration (IAR) Standard 6 (2019), Chapter 11, Section 11.1.1 requires "Where pitting, surface damage, general corrosion, or a combination thereof, is visually observed on a metal surface of the piping, deficient areas shall be further evaluated per Sections 11.1.1.1 – 11.1.1.3," which require further corrective action, depending on the circumstances.
 - b. Heavy ice build-up was observed on piping in the ammonia machinery/engine

room. The ice buildup adds considerable weight on piping and vessel supports that may not be designed to hold this extra weight and may also contribute to corrosion during thermal cycling. This condition is inconsistent with IIAR 6 (2019), Chapter 5, Section 5.6.8. which states “[e]quipment and piping shall be kept free of excessive ice buildup” and with IIAR 9 (2020) Chapter 7, Section 7.2.6.1, which in part states “[p]iping and equipment surfaces not intended for heat exchange must be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup where the surface temperature is below the dew point of the surrounding air during normal operation and in an area where condensation and frost could develop and become a hazard to occupants or cause damage to the structure, electrical equipment, or refrigeration system.”

- c. The egress doors from the ammonia machinery room were not equipped with panic hardware to facilitate exit in case of emergency. This condition is inconsistent with IIAR Standard 2 (2021), Chapter 6, Section 6.10.2 and Standard 9 (2020), Chapter 7, Section 7.3.9.2, both of which require in part “[m]achinery room doors shall be self-closing and tight fitting. Doors that are part of the means of egress shall be equipped with panic hardware and shall be side-hinged to swing in the direction of egress for occupants leaving the machinery room.”
 - d. The entry doors into the ammonia machinery room did not have National Fire Protection Association (NFPA) diamonds reflecting the degree of health hazard (blue), flammability hazard (red), and reactivity hazard (yellow). Also, the fence surrounding anhydrous ammonia receiver tank and piping on the outside of the ammonia machinery room did not have NFPA diamonds reflecting the degree of health/flammability/and reactivity hazard. These conditions are inconsistent with IIAR 9 (2020), Chapter 7, Section 7.2.9.1 which requires buildings and facilities with refrigeration systems to be provided with placards in accordance with NFPA 704. The NFPA 704 ammonia fire diamond for indoor ammonia refrigeration equipment should be 3-3-0 and outdoor entrances should be 3-1-0. The meaning of each alarm shall be clearly marked by signage near the visual and audible alarms and each machinery room entrance door shall be marked with a permanent sign to indicate that only authorized personnel are permitted to enter the room.
 - e. There was no eye wash/safety shower located outside of the ammonia machinery room. This condition is inconsistent with IIAR 9 (2020), Chapter 7, Section 7.3.7.1, which requires each machinery room to have access to a minimum of two eyewash/safety shower units, one located inside the machinery room, and one located outside of the machinery room, each meeting the requirements in Section 7.3.7.3.
2. It had established, in accordance with 40 C.F.R. § 68.67(e), a system to: promptly address the team's process hazard analysis (PHA) findings and recommendations; assure that the recommendations are resolved in a timely manner and that the

resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions. The last two PHA documents (one dated June 8, 2017, and the other dated December 9, 2022) did not contain a written schedule of when the recommendations and/or actions were to be completed.

3. It had conducted, updated, and revalidated the PHA, in accordance with 40 C.F.R. § 68.67(f), which states “[a]t least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process.” Of the two most recently completed PHAs, one is dated June 8, 2017, and the other is dated December 9, 2022, more the five years after completing the 2017 PHA.
4. It had established and implemented written procedures, in accordance with 40 C.F.R. § 68.75(a), to manage changes (except for “replacement in kind”) to process chemicals, technology, equipment, and procedures; and changes to stationary sources that affect a covered process. 40 C.F.R. § 68.75(b) requires that the procedures must assure that the following considerations are addressed prior to any change: (1) The technical basis for the proposed change; (2) Impact of change on safety and health; (3) Modifications to operating procedures; (4) Necessary time period for the change; and (5) Authorization requirements for the proposed change. 40 C.F.R. § 68.75(c) states that the employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process must be informed of, and trained in, the change prior to start-up of the process or affected part of the process. 40 C.F.R. § 68.75(d) requires that if a change covered by this paragraph results in a change in the process safety information required by 40 C.F.R. § 68.65 of this part, such information must be updated accordingly. 40 C.F.R. § 68.75(e) states that if a change covered by this paragraph results in a change in the operating procedures or practices required by 40 C.F.R. § 68.69, such procedures or practices must be updated accordingly. An incident report for an incident dated January 20, 2023, indicated a threaded ammonia pipe was replaced with a non-threaded pipe. This pipe change was not processed under management of change and is not a replacement in kind.
5. It had, in accordance with 40 C.F.R. § 68.79(a), certified that it had evaluated compliance with the provisions of subpart D at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed, when the latest two compliance audits were performed during November 11-12, 2019, and on November 16, 2022, just over three years apart.

SETTLEMENT

In consideration of such factors as Respondent's size, its full compliance history, its good faith efforts to comply, the duration and seriousness of the violation, and other factors as justice may require, the parties enter into this ESA to settle the violation(s) cited above, for the total penalty amount of **\$8,200.00**.

Within thirty (30) calendar days of receiving a copy of the fully executed ESA, Respondent shall: (1) pay the penalty and (2) send proof of payment as described below.

1. Pay Penalty

Pay using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

When making a payment, Respondent shall identify every payment with Respondent's name and the docket number of this ESA, **CAA-04-2024-0300(b)**.

2. Send Proof of Payment

Concurrently with any payment or within 24 hours of any payment, Respondent shall **send proof of such payment** to the following persons:

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov,

and

Chetan Gala
Case Development Officer
Gala.Chetan@epa.gov,

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

The penalty specified in this ESA shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of state or federal taxes.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits that EPA has jurisdiction over the subject matter alleged in this ESA, neither admits nor denies the specific factual allegations contained herein, 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 and Final Order or otherwise contest the allegations contained in this ESA; and each party to this action shall bear its own costs and fees, if any.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that as of the date of its execution of this ESA, it is in compliance with all relevant requirements of Section 112(r)(7) of the Act and 40 C.F.R. Part 68.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for federal civil penalties for the violation(s) alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. The EPA also does not waive any other enforcement action for any other violations of the Act or any other statute.

Late payment of the penalty may subject Respondent to interest, administrative costs, and late payment penalties in accordance with 40 C.F.R. § 13.11.

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

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FOR RESPONDENT:

Signature: Brian Supak

Date: 5-31-2024

Name (print): Brian Supak

Title (print): Facilities Compliance Administrator

FOR COMPLAINANT:

for Keriema S. Newman
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order in the Matter of Blue Bell Creameries, L.P. Docket No. CAA-04-2024-0300(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Doug Martin
General Counsel and Vice President of Compliance
Blue Bell Creameries, L.P.
doug.martin@bluebell.com
979-836-7977

Andy Kollman
Vice President of Plant Operations
Blue Bell Creameries, L.P.
Andy.kollman@bluebell.com
(979) 836-7977 ext. 1513

To EPA: Chetan Gala, Case Development Officer
Gala.Chetan@epa.gov
Phone Number: (404) 562-9746

Marirose Pratt, Associate Regional Counsel
Pratt.Marirose@epa.gov
Phone Number: (404) 562-9023

Shannon L. Richardson, Regional Hearing Clerk
U.S. EPA Region 4
R4_Regional_Hearing_Clerk@epa.gov