



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

FILED

2011 AUG -9 PM 2:33

U.S. DEPARTMENT OF JUSTICE
 REGIONAL HEARING CENTER

DOCKET NO: CAA-09-2011-0002
This ESA is issued to: Jacobson Distribution Company, One North 59th. Avenue, Phoenix, AZ 85043
For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Jacobson Distribution Company, One North 59th. Avenue, Phoenix, AZ 85043

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 Jacobson Distribution Company (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

I. Respondent was required to document that equipment complies with recognized and generally accepted good engineering practices. Respondent is in violation of Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.65(d)(2)

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 \$900.

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 \$900 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 – Jacobson Distribution Company

Signature: Michael J. Wittman

Date: 7-20-2011

Name (print): Mike Wittman Mike Wittman

Title (print): General Manager General Manager

FOR COMPLAINANT:

For Jane Diamond
Jane Diamond
Superfund Director
U.S. EPA Region IX

Date: 8-2-11

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

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


Date: 08/09/11

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order (Docket No. CAA-09-2011-0002) against Jacobson Distribution Company, 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:

CERTIFIED MAIL NUMBER: 7008-1140-0004-5421-3211

Mr. Michael Wittman
Jacobson Distribution Company
One North 59th Avenue
Phoenix, CA 85043



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

8/9/11

Date



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

CERTIFIED MAIL NO.: 7008 1140 0004 5421 3211
Return Receipt Requested

AUG 09 2011

Michael Wittman
Jacobson Distribution Company
One North 59th Avenue
Phoenix, AZ 85043

Re: Jacobson Distribution Company
RMP ID #1000 0001 6993

Dear Mr. Wittman:

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 Jacobson Distribution Company, Phoenix, AZ 85043. The violations involve failure to prepare or implement certain procedures required 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 Mary Wesling of my staff at (415) 972-3080.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Diamond".

Jane Diamond
Director, Superfund Division

Enclosures