

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

DOCKET NO: CAA (112r)-09-2018-0014

**** FILED ****

This ESA is issued to: **United States Cold Storage, Inc.**
1400 North MacArthur Dr.
Tracy, CA 95376-2837

26SEP2018 - 03:20PM
U.S.EPA - Region 09

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: United States Cold Storage, Tracy; 1400 North MacArthur Dr., Tracy, CA 95376-2837

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Enrique Manzanilla, Superfund Director, and United States Cold Storage, 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). EPA has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

Following its August 21, 2017 inspection, EPA alleges Respondent's failure to:

1. ***Process Safety Information - 40 CFR § 68.65(d)(2): The owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices.***

The Facility did not document that labeling on process equipment meets Recognized and Generally Accepted Good Engineering Practices (RAGAGEP). Inspectors observed inadequate labeling of the process piping and equipment throughout the system that does not meet standards provided in the American National Standards Institute (ANSI) and American Society of Mechanical Engineers (ASME) standard no. A13.1.2007 "Standard for the Identification of Pipes" and the International Institute of Ammonia Refrigeration ("IIR") Bulletin 114 (2014) "Guidelines for Identification of Ammonia Refrigeration Piping and System Components."

2. ***Operating Procedures - 40 CFR § 68.69(a): The owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements: ... (4) Safety systems and their functions...***

The Facility did not clearly state safety systems and their functions, as required in 40 C.F.R. § 68.69(a)(4), in the two Standard Operating Procedures (SOPs) reviewed ("020TS Two Stage Operation System" and "019SS Single Stage Operations").

3. ***Operating Procedures - 40 CFR § 68.69(c): The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.***

The Facility did not document that it reviewed its SOPs to be current and accurate for 2016 and 2017. Annual certification records reviewed during the inspection for 2016 and 2017 include only 16 of the

Facility's 40 SOPs (as listed in SOP Table of Contents). Of those SOPs reviewed by the Facility, several of the reviewed SOPs are marked as "No," for which the Facility did not indicate whether deficiencies were corrected.

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 **\$2,340**.

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 an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) **or alternatively has sent a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$2,340** 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 EPA Cincinnati Finance Center. This *original ESA* and a copy of the check or online receipt must also be sent by certified mail to:

Angie Proboszcz (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 and EPA has not granted an extension of its offer to settle, 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.

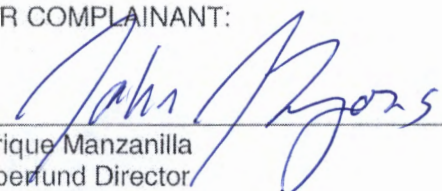
FOR RESPONDENT – United States Cold Storage, Inc.

Signature:  Date: 9/07/18

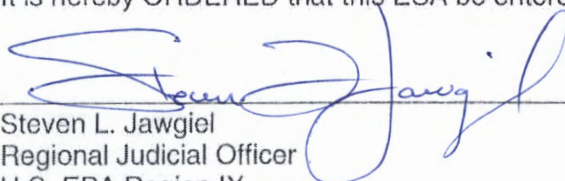
Name (print): Daniel Regnart

Title (print): Plant Manager

FOR COMPLAINANT:

to/  Date: 9/14/18
Enrique Manzanilla
Superfund Director
U.S. EPA Region IX

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

 Date: 09/26/18
Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA Region IX

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Consent Agreement and Final Order in the matter of United States Cold Storage, Inc. [Docket Number CAA(112R)-09-2018-0014], has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

The Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent -


Mr. Daniel Regnart
Plant Manager
United States Cold Storage, Tracy
1400 North MacArthur Dr.
Tracy, CA 95376-2837

HAND DELIVERED:

Complainant -
(By Counsel)

Andrew Helmlinger
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated at San Francisco, CA, 9/27, 2018;


FOR: Steven Armsey
Regional Hearing Clerk
EPA, Region 9