



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140

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OFFICE OF COMPLIANCE AND ENFORCEMENT
REGION 10

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2018-0347
This ESA is issued to: Safeway, Inc.
Bellevue Milk and Ice Cream Plant
1723 124th Avenue NE,
Bellevue, Washington 98005-2144

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by Safeway, Inc. ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA has determined that Respondent violated the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (CAA), as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary ("Summary"), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$3,900**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Summary, and consents to the assessment of the penalty as stated above.

Respondent waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations listed in the enclosed Summary.

Respondent agrees to submit payment in full of the \$3,900 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This original ESA must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mail Stop: OCE-201
Seattle, Washington 98101

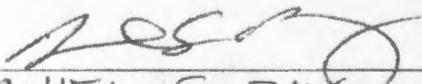
Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA is not returned to the EPA Region 10 at the above address by Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

This ESA is binding on the parties signing below.

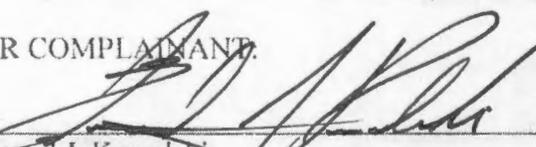
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: 
Name (print): DANIEL S. DAY
Title (print): V.P. REGULATORY COMPLIANCE
Cost to correct violation(s): _____

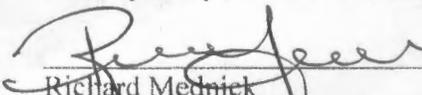
Date: 9.13.18

FOR COMPLAINANT:


Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 9/30/2018

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


Richard Mednick
Regional Judicial Officer

Date: 9/24/18



U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

| | | |
|--|---|--|
| FACILITY NAME: Bellevue Milk and Ice Cream Plant | <input checked="" type="checkbox"/> PRIVATE # EMPLOYEES: 160 | <input type="checkbox"/> GOVERNMENTAL/MUNICIPAL POPULATION SERVED: Click here |
| FACILITY LOCATION: 1723 124 Avenue NE, Bellevue Washington 98005 | INSPECTION START DATE AND TIME: 3/6/2018 09:00 | |
| MAILING ADDRESS: 1723 124 Avenue NE, Bellevue Washington 98005 | INSPECTION END DATE AND TIME: 3/6/2018 16:30 | |
| RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Bill Schoenbachler, Plant Manager 425) 201-2854 | EPA FACILITY ID# 1000 0006 2086 | |
| FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Lon Parr, Plant Maintenance Manager, Milk Plant Fred Flores, Director of Corporate Engineering Bob Deninno, Senior Environmental Project Manager Cameron Siegele, Maintenance Manager, Ice Cream Plant John Willard, Production Manager | INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Bob Hales, US EPA Region 10, RMP SEE Inspector, Lead Peter Phillips, US EPA Region 10, RMP SEE Inspector Terry Garcia, US EPA Region 10, RMP SEE Inspector Derrick Terada, Unit Manager David Magdangal, US EPA Region 10, RMP Inspector | |
| | INSPECTOR SIGNATURE  | DATE 7-30-2018 |

INSPECTION FINDINGS

| | | |
|--|---|-----------------------------|
| IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)? | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185? | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| DATE RMP FILED WITH EPA: 06/18/1999 | DATE OF LATEST RMP UPDATE: 06/10/2014 | |
| 1) PROCESS/NAICS CODE: 1000055222 | PROGRAM LEVEL: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 | |
| REGULATED SUBSTANCE: anhydrous ammonia | MAX. QUANTITY IN PROCESS: 44,000 (lbs.) | |

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

Five (5) EPA representatives inspected the Bellevue Milk and Ice Cream Plant on March 6, 2018. Based upon this inspection the Bellevue Milk and Ice Cream Plant (Bellevue Plant) is in violation of the following risk management program elements:

- Operating procedures:** The Bellevue Plant has not certified annually that the operating procedures are current and accurate as required by 40 C.F.R. § 68.69(c). The Bellevue Plant was unable to produce documentation showing that their operating procedures were certified in 2018.
- Training:** Each employee presently involved in operating the process and each employee before being involved in operating a newly assigned process has not been trained in an overview of the process and the operating procedures as required by 40 C.F.R. § 68.71(a)(1). The Bellevue Plant was unable to produce training records that their operator is trained in the overview of the refrigeration process and the operating procedures.
- Training:** The initial training did not include emphasis on safety and health hazards, emergency operations including shutdown and the safe work practices applicable to the employee's job tasks as required by 40 C.F.R. § 68.71(a)(1). The Bellevue Plant was unable to produce training records that their operator is trained on safety and health hazards, emergency operations, and safe work practices.
- Training:** In lieu of initial formal training for those employees already involved in an operating process on June 21, 1999, the Bellevue Plant did not certify in writing that the employee has the required knowledge, skills and abilities to safely carry out the duties and responsibilities as specified in the operating procedures as required by 40 C.F.R. § 68.71(a)(2). The Bellevue Plant was unable to provide a certified training letter for their operator who has been employed since 1979.
- Training:** The Bellevue Plant did not provide refresher training 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 as required by 40 C.F.R. § 68.71(b). The Bellevue Plant was unable to produce refresher training records for their two operators who have been employed since 1979 and 2011.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

6. **Mechanical Integrity:** The Bellevue Plant has not ensured the frequency of inspections and tests of the process equipment is consistent with applicable manufacturers recommendations, good engineering practices and prior operating experience as required by 40 C.F.R. § 68.73(d)(3). The Bellevue Plant pressure relief valves (PRV) were approximately six months overdue for replacement depending on their installation date. Reference IIAR Bulletin 110, Rev 6/07, Section 6.6.3, Pressure Relief Devices.
7. **Compliance audits:** The Bellevue Plant has not promptly determined and documented an appropriate response to each of the findings of the audit and documented the deficiencies had been corrected as required by 40 C.F.R. § 68.79(d). Twenty (20) unresolved findings were identified in the Compliance Audit dated March 19, 2015 prepared by SCS Tracer Environmental

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES

NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1

PROGRAM LEVEL 2

PROGRAM LEVEL 3

OTHER ATTACHMENTS:

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Safeway, Inc. (Bellevue Milk and Ice Cream Plan), Docket No.: CAA-10-2018-0347**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

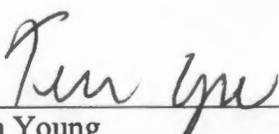
The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, OCE-201
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Daniel S. Day, VP Regulatory Compliance
Albertsons Companies
250 East Parkcenter Boulevard
Boise, Idaho 83706

DATED this 25 day of September, 2018



Teresa Young
Regional Hearing Clerk
EPA Region 10