



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

FILED  
EPA-09-2 AM 11:2  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL HEARING CENTER

**DOCKET NO:** CAA 112r-09-2011-0026  
**This ESA is issued to:** Red River Fresh Produce, LLC, 4102 S. Avenue 31/2 E., Yuma, AZ 85365  
**For:** Violation of Section 112(r)(7) of the Clean Air Act.  
**At:** Red River Fresh Produce, 4102 S. Avenue 31/2 E., Yuma, AZ 85365

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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 Red River Fresh Produce (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 Code of Federal Regulations (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. Code (U.S.C.) § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

- I. Respondent failed to ascertain, document and record that each employee involved in operating a process has received and understood the training as required under 40 C.F.R. § 68.71(c).
- II. Respondent failed to certify that the stationary source had been evaluated for 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 as required under 40 C.F.R. § 68.79(a).

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 **\$1,440.00**.

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 has sent a cashier's check or certified check (payable to the Treasurer, United States of America) in the amount of \$1,440.00 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 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 – Red River Fresh Produce

Signature: Mark Beeler Date: 7-16-11

Name: Mark Beeler

Title: Facility Manager

FOR COMPLAINANT:

*ccv* Jane Diamond Date: 7-28-11

Jane Diamond  
Superfund Director  
U.S. EPA Region IX

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

Steven L. Jawgiel Date: 08/01/11

Steven L. Jawgiel

Chief Judicial Officer  
U.S. EPA Region IX

**RMP ESA - Penalty Calculation (From ESA Penalty Policy)**

**Facility Name:** Red River Fresh Produce  
 4102 S. Ave. 31/2E., Yuma AZ  
**Facility Address:** 85365  
**Facility RMP ID#:** 1000 0019 3649  
**Program Level:** 3  
  
**Number of Employees:** 10

**Chemical /quantity reported:** Anhydrous Ammonia 25,250

**Threshold Quantity:** 10,000  
**Times TQ:** 2.525

# of Employees	Times TQ for chemical is process		
	1-5	5-10	>10*
1-9	0.4	0.6	0.8
10-100	0.6	0.8	1
>100	1	1	1

**Penalty Calculation:**  
 Base Penalty = \$2,400  
 2400 x 0.6 **\$1,440**