



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3188

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2021-0108
This ESA is issued to: Apple House Warehouse & Storage, Inc.
491 Industrial Way
Pateros, Washington

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 Apple House Warehouse & Storage, 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). February 1, 2021, 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 **\$8,800**.

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 \$8,800 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
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mail Stop: 20-C04
Seattle, Washington 98101-3188

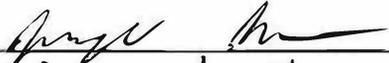
Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its 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:  Date: 6/3/21
Name (print): Serge Arevalo
Title (print): Plant Engineer - Refrigeration Manager
Cost to correct violation(s): \$14,000

FOR COMPLAINANT:

EDWARD Digitally signed by EDWARD KOWALSKI Date: 2021.06.07 14:36:09 -0700 _____ Date: _____
KOWALSKI
Edward J. Kowalski
Director
Enforcement & Compliance Assurance Division

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

RICHARD Digitally signed by RICHARD MEDNICK Date: 2021.06.08 10:07:25 -0700 _____ Date: _____
MEDNICK
Richard Mednick
Regional Judicial Officer



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: Apple House Warehouse & Storage, Inc.	<input checked="" type="checkbox"/> PRIVATE # EMPLOYEES 130	<input type="checkbox"/> GOVERNMENTAL/MUNICIPAL POPULATION SERVED: Click here
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FACILITY LOCATION: 491 Industrial Way, Pateros, WA 98846	INSPECTION START DATE: 9/2/2020	INSPECTION START TIME: N/A
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MAILING ADDRESS: 491 Industrial Way, Pateros, WA 98846	INSPECTION END DATE: 12/8/2020	INSPECTION END TIME: N/A
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RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Jorge Arevalo, Plant Engineer, (509) 689-3424	EPA FACILITY ID# 1000 0018 0136
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FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Jorge Arevalo, Plant Engineer, (509) 689-3424	INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Terry Garcia, SEE Grantee RMP Inspector, 206-553-1761 Javier Morales, RMP Coordinator, 206-553-1255	
	INSPECTOR SIGNATURE	DATE

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
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DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
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DATE RMP FILED WITH EPA October 8, 2002:	DATE OF LATEST RMP UPDATE: December 4, 2019
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1) PROCESS/NAICS CODE: 49312	PROGRAM LEVEL: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3
REGULATED SUBSTANCE: Ammonia (anhydrous)	MAX. QUANTITY IN PROCESS (lbs.): 18,000

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.

One EPA representatives inspected the Apple House Warehouse & Storage, Inc. on December 8, 2020. Based upon this inspection the Apple House Warehouse & Storage, Inc. facility is in violation of the following risk management program elements:

- Process Hazard Analysis (PHA):** The owner or operator shall establish a system to promptly address the team's 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; 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. 40 C.F.R. § 68.67(e). Apple House did not resolve their 2014 PHA findings and recommendations in a timely manner and were carried over to the 2019 PHA. The 2014 PHA Finding #5.10 is similar to the 2019 PHA Finding #4.7, #3.15, and #5.22 concerning P&IDs and valve labeling. The 2014 PHA Finding #9.1 is the same as the 2019 PHA Finding #9.1 concerning a power loss recovery checklist.
- Process Hazard Analysis (PHA):** The owner or operator shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e) of this section for the life of the process as required by 40 C.F.R. § 68.67(g). Apple House was unable to produce their initial PHA prior to their 2014 PHA when the facility was purchased in 2012.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

3. Process Hazard Analysis (PHA): The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used. 40 C.F.R. § 68.67(d). Apple House did not identify their team members involved in conducting their 2014 and 2019 PHA.
4. Training: Each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in the operating procedures as specified in §68.69. The training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. 40 C.F.R. § 68.71(a)(1). Apple House was unable to produce initial training documentation for their two operators (Mr. Riggin hired in 2002 and Mr. Hernandez hired in 2018.).
5. Training: Refresher training shall be provided at least every three years, and 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). Apple House was unable to produce refresher training documentation for their two operators (Mr. Riggin hired in 2002 and Mr. Hernandez hired in 2018.).
6. Training: Apple House was unable to provide training documentation for their two operators (Mr. Riggin hired in 2002 and Mr. Hernandez hired in 2018.). The owner or operator shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph; shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training as required by 40 C.F.R. § 68.71(c).
7. Mechanical integrity (MI): The owner or operator shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner as required by 40 C.F.R. § 68.73(c). Apple House was unable to produce training documentation for process employees conducting maintenance on ammonia refrigeration process equipment. Apple House uses a third party contractor, North Valley, Mr. Kenny Fisher for maintenance and did not ensure that site-specific training was provided for process maintenance activities.
8. Risk Management Plan, Required Corrections, Emergency Contact: Emergency contact information—Beginning June 21, 2004, within one month of any change in the emergency contact information required under §68.160(b)(6), the owner or operator shall submit a correction of that information as required by 40 C.F.R. § 68.195(b). EPA contacted Apple House's 24-hour phone emergency line listed in their RMP dated December 4, 2019 to determine if Mr. Jorge Arevalo can be contacted. There was a message stating, "I'm sorry the person you have called has not set up a voice mail yet." The email address listed is for Mr. Richard Thomason instead of Mr. Arevalo. Mr. Thomason vacated the position due to his passing over a year ago.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES

NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1

PROGRAM LEVEL 2

PROGRAM LEVEL 3

OTHER ATTACHMENTS: