



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

FILED

2011 AUG 16 AM 11:11

U.S. EPA REGION IX
REGIONAL HEARING CLERK

DOCKET NO: EPCRA-09-2011- 0008
This ESA is issued to: Safeway (Tempe) Distribution Center.
At: Safeway (Tempe) Distribution Center, 1115 W. Alameda Dr., Tempe, AZ 85282
For: Violating Section 312 of the Emergency Planning and Community Right-To-Know Act

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 by Plains LPG Services, L.P., ("Respondent") pursuant to Section 325 of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045, and by 40 CFR § 22.13(b).

ALLEGED VIOLATIONS

- 1) The EPA alleges that Respondent, owner and operator of the Safeway (Tempe) Distribution Center facility at 1115 W. Alameda Dr., Tempe, AZ 85282 ("Facility"), The Respondent under reported the amount of Anhydrous Ammonia stored on site in their Tier II inventory reporting documents for 2008 and 2009 to the Arizona State Emergency Response Commission ("SERC"), Maricopa County Local Emergency Planning Committee ("LEPC") or the Tempe Fire Department, in violation of Section 312 of EPCRA, 42 U.S.C. §11022, and its implementing regulations found at 40 C.F.R. Part 370

SETTLEMENT

EPA and Respondent agree that settlement of this matter for a penalty of **TWO THOUSAND DOLLARS (\$ 2,000)** is in the public interest. In signing this Agreement, Respondent: (1) admits that Respondent is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; and (5) waives any right to contest the allegations or appeal the final order contained herein.

By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) Respondent has corrected the violations listed above, and (2) Respondent has submitted payment of the civil penalty pursuant to this Agreement. Each party shall bear its own costs and fees, if any.

The civil penalty of **TWO THOUSAND DOLLARS (\$ 2,000)** should be paid by cashier's or certified check or online payment through the Department of Treasury at WWW.PAY.GOV to the "Treasurer, United States of America." The penalty payment should be sent, with a copy of the ESA, 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 the check or online payment receipt and a copy of this ESA must be sent by certified mail to the above address.

This original ESA (original signature) and a copy of the check or online payment receipt must be

sent by certified mail to:

Mary Wesling
U.S. Environmental Protection Agency
Region IX (SFD-9-3)
75 Hawthorne Street
San Francisco, CA 94105

Upon Respondent's submission of the original signed ESA, EPA will take no further civil penalty action against Respondent for the alleged violations of EPCRA identified in the ESA. 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 or online payment receipt is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of the proposed ESA (unless an extension has been granted by EPA), 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.

In accordance with 40 CFR § 22.31(b), this ESA is effective upon filing with the Regional Hearing Clerk.

IT IS SO AGREED,

FOR RESPONDENT - ~~Benny Allen, Facility Manager~~

Signature: 

Date: 7-29-11

Name (print): Mario Adamy

Title (print): VP Corporate Distribution

FOR COMPLAINANT:




Gov Jane Diamond

Date: 8-9-11

Superfund Director
U.S. EPA Region IX

IT IS SO ORDERED:



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

Date: 08/11/11

CERTIFICATE OF SERVICE

I certify that the originals of the fully executed Expedited Settlement Agreements against **Safeway, Inc.** 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:

Docket # CAA(112r)-09-2011-0012

Docket # EPCRA-09-2011-0008

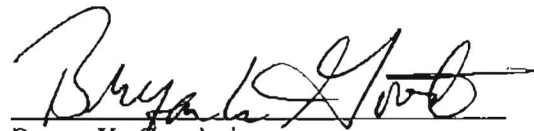
A copy was mailed via CERTIFIED MAIL to:

Pamela Capuchino
Legal Division
Safeway, Inc.
5918 Stoneridge Mall Road
Pleasanton, CA 94588-9855

CERTIFIED MAIL NUMBER: 7011-0470-0003-4952-6872

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Thanne Cox, Esq
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



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

8/16/11
Date



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

CERTIFIED MAIL NO.: 7011 0470 0003 4952 6872
RETURN RECEIPT REQUESTED

In Reply Refer to:
Safeway Tempe Distribution Center

AUG 16 2011

Pamela Capuchino
Legal Division
Safeway, Inc.
5918 Stoneridge Mall Rd
Pleasanton, CA 94588-9855


Re: Safeway Tempe Distribution
RMP Facility ID#: 1000 0006 2148

Dear Ms. Capuchino:

This letter transmits copies of the fully executed Expedited Settlement Agreements that resolve the alleged violations of Clean Air Act Section (CAA) 112(r)(7) and the Emergency Planning and Community Right-to-Know Act (EPCRA) Section 312 by Safeway, Inc. at its facility located at 1115 West Alameda Drive, Tempe, AZ. The violations involve Safeway Inc.'s failures to fully implement the facility's Risk Management Plan as required by 40 CFR Part 68 and failure to submit correct Tier II annual chemical inventories as required under 40 CFR Part 370(40)(a).

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the CAA Section 112(r)(7) or the EPCRA Section 312 requirements, please feel free to contact Mary Wesling of my staff at (415) 972-3080.

Sincerely,


Gov Jane Diamond
Director, Superfund Division

Enclosures

cc (w/ enclosures):

M. Wesling, EPA Region IX
T. Cox, EPA Region IX