



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

MAY 01 2014

US EPA - REGION IX  
HEARING CLERK

2014 May 05 PM 3:33

FILED

DELIVERED BY EMAIL TO [michelle.schlefstein@dole.com](mailto:michelle.schlefstein@dole.com)

Facility Name: Dole Packaged Foods, LLC  
Facility Address: 7916 West Bellevue  
City, State, Zip Code: Atwater, CA 95301

(CAA(112B)-09-2014-0004)

Re: Notice of Non-Compliance - Clean Air Act Section 112(r)(7)  
Risk Management Plan (RMP) Reporting Requirements  
RMP Facility ID #: 1000 0014 1786  
Opportunity for Expedited Settlement within Twenty One Days

Ms. Michelle Schlefstein  
Safety and Environmental Manager  
Dole Packaged Foods, LLC  
7916 West Bellevue  
Atwater, CA 95301

Dear Ms. Schlefstein:

**Investigation Results - Risk Management Plan (RMP) Requirements**

On January 09, 2013, Mr. Jeremy Johnstone and Mr. Robert Lucas, of the United States Environmental Protection Agency ("EPA") Region 9, conducted an inspection of Dole Packaged Foods, LLC, 7916 West Bellevue, Atwater, CA 95301 (the "Facility"). Our review of the information available concerning the above referenced facility indicates that Dole Packaged Foods, LLC failed to:

- 1) *Contain piping and instrumentation diagrams in the process safety information as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.65(d)(1)(ii).*

A review of the facility piping and instrumentation diagrams (P&IDs) indicated that line size information was commonly missing, in violation of recognized and generally accepted good engineering practices for P&IDs.

- 2) *Comply with recognized and generally accepted good engineering practices as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.65(d)(2).*

During the facility walk-through on the Plant 2 roof, EPA inspectors noticed the Pressure Relief Valve Discharge Vents were pointed down and did not appear to meet the 15 foot height requirement specified by the *International Institute of Ammonia Refrigeration (IIR)* and the *American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)* requirements. The facility indicates it has since corrected the situation.

- 3) *Establish a system to promptly address the Facility Process Hazard Analysis (PHA) team's findings and recommendations; assure that the recommendations are resolved in a timely manner and 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; and communicate the actions to operating,*

*maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.67(e).*

The Facility failed to address PHA recommendations appropriately. The 2004 PHA report recommended that the facility implement a corrective measures tracking system which would identify recommendations from the PHA and track how the facility addressed those recommendations. The 2009 PHA report, however, failed to include such a tracking system for addressing identified actions and recommendations.

- 4) *Develop and implement safe work practices to provide for the control of hazards during operations, such as lockout/tagout as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.69(d)).*

Several process pipelines did not have appropriate labeling and/or signage to identify the contents and flow direction of the pipes in conformance with the requirements of IIAR Bulletin 114 and 40 C.F.R. §68.69(d).

#### **Other Observations/Recommendations**

EPA inspectors observed tags attached to equipment that were not signed or dated. The facility is tracking the Lockout/Tagout process electronically; however, it is recommended that tags be signed and dated.

#### **Opportunity for Expedited Settlement**

Under CAA § 113(b), 42 U.S.C. § 7413(b), and 40 C.F.R. Part 19, violators may be penalized up to \$37,500 per day of violation. EPA Region 9 is extending to you an opportunity to quickly resolve your violations by correcting your violations and paying a substantially reduced penalty under EPA's Expedited Settlement process. If you choose to participate in the Expedited Settlement process, we will settle the violations listed above for a civil penalty of \$4,500. We are providing this incentive to resolve outstanding violations as quickly as possible.

We encourage you to immediately review the RMP requirements to determine your compliance status. You have twenty-one (21) days from the date you receive this letter to take advantage of this opportunity. If you determine that you are not subject to or have not violated the RMP requirements described above, please provide a written explanation, along with any supporting documentation, to Angie Proboszcz, EPCRA/RMP Enforcement, at the EPA address shown below, within twenty-one (21) days of your receipt of this letter.

Angie Proboszcz (SFD-9-3)  
EPCRA/RMP Enforcement  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

If you confirm that you did not properly comply with the RMP requirements described above, you may take advantage of the Expedited Settlement process and reduced penalty by responding to this notice within twenty-one (21) days of your receipt of this letter.

## **Procedure for Expedited Settlement**

To take advantage of the Expedited Settlement process, within twenty-one (21) days of your receipt of this letter you must:

- (1) Complete and return to USEPA, Region 9, the signed original enclosed Expedited Settlement Agreement ("ESA" or "Agreement") with a copy of the payment instrument (check or online receipt), to the address below:

Angie Proboszcz (SFD-9-3)  
EPCRA/RMP Enforcement  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

- (2) Pay the assessed penalty amount as indicated in the attached Expedited Settlement Agreement by 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, send check via certified mail to:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

**Note that the payment instrument (check or online payment) and a copy of the completed ESA must be sent to the address indicated in the instructions provided in the ESA.**

- (3) Pursuant to CAA Section 114(a)(1)(B) [42 U.S.C. 7414(a)(1)(B)] please provide documentation describing how each area of identified non-compliance has been or will be addressed. Such documentation is due to U.S. EPA within 21 calendar days of your receipt of this letter. If you have corrected non-compliance and intend to resolve EPA's penalty action through the enclosed ESA, your signature affirms that the listed violations have been corrected. When you return the signed ESA to U.S. EPA, please provide documentation describing how each area of identified non-compliance was addressed along with an estimate of the cost you incurred fixing those deficits.

In signing the attached ESA, you are certifying that you have corrected your CAA §112(r) RMP violations and paid the assessed penalty, and you are waiving your opportunity for a hearing or an appeal concerning your violation of the CAA §112(r) RMP requirements. This Agreement covers only the violations alleged in the ESA. The Agreement does not address compliance with any other CAA §112(r) RMP requirements.

**Please be advised that correcting the violations without participating in a settlement with EPA does not resolve your liability for the violations alleged in the ESA, nor your responsibility to comply with all applicable requirements under CAA § 112(r).**

If you do not follow the procedures outlined in this letter and the attached ESA (e.g., comply with the CAA Section 112(r)(7) requirements described above, pay the assessed penalty, and sign the ESA) within twenty-one (21) days of receipt of this letter, this settlement offer will be automatically withdrawn without

prejudice to EPA's ability to file an enforcement action for the cited violation. EPA may seek penalties of up to \$37,500 per day for each violation.

We are committed to the fair and rapid settlement of this matter. If you have any questions, or wish to discuss the general circumstances of your case, please contact Angie Proboszcz, of my staff, at (415) 972-3077 or email at [proboszcz.angie@epa.gov](mailto:proboszcz.angie@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Enrique Manzanilla', with a long horizontal flourish extending to the right.

Enrique Manzanilla  
Superfund Director  
U.S. EPA Region IX

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

DOCKET NO: CAA (112r)-09-2014-\_\_\_\_\_

This ESA is issued to: Dole Packaged Foods, LLC  
7916 Bellevue  
Atwater, CA 95301

For: Violation of Section 112(r)(7) of the Clean Air Act.  
At: Dole Packaged Foods, LLC, 7916 Bellevue, Atwater, CA 95301

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 Dole Packaged Foods, LLC ("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, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

**ALLEGED VIOLATIONS**

Failure to:

- 1) *Contain piping and instrumentation diagrams in the process safety information as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.65(d)(1).*

A review of the facility piping and instrumentation diagrams (P&IDs) indicated that line size information was commonly missing, in violation of recognized and generally accepted good engineering practices for P&IDs.

- 2) *Comply with recognized and generally accepted good engineering practices as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.65(d)(2).*

During the facility walk-through on the Plant 2 roof, EPA inspectors observed that the Pressure Relief Valve Discharge Vents were pointed down and did not meet the 15 foot height requirement specified by the International Institute of Ammonia Refrigeration (IIAR) and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) requirements. The facility indicates it has since corrected the situation.

- 3) *Establish a system to promptly address the Facility Process Hazard Analysis (PHA) team's findings and recommendations; assure that the recommendations are resolved in a timely manner and 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; and communicate the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.67(e).*

The Facility failed to address PHA recommendations appropriately. The 2004 PHA report recommended that the facility implement a corrective measures tracking system which would identify recommendations from the PHA and track how the facility addressed those recommendations. The

2009 PHA report, however, failed to include such a tracking system for addressing identified actions and recommendations.

- 4) *Develop and implement safe work practices to provide for the control of hazards during operations, such as lockout/tagout as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.69(d).* Several process pipelines did not have appropriate labeling and/or signage to identify the contents and flow direction of the pipes in conformance with the requirements of IAR Bulletin 114, which is also a violation of 40 C.F.R. §68.69(d).

Several process pipelines did not have appropriate labeling and/or signage to identify the contents and flow direction of the pipes in conformance with the requirements of IAR Bulletin 114 and 40 C.F.R. §68.69(d).

## 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 **\$4,500**.

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 **\$4,500** 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:**

Angle 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 21 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 – Dole Packaged Foods, LLC

Signature: Michelle S. [Signature]

Date: 5/15/14

Name (print): Michelle Schiefstein Jon Rodacy

Title (print): Safety and Environmental Manager VP/GM

FOR COMPLAINANT:

[Signature]

Date: 5/1/14

Enrique Manzanilla  
Superfund Director  
U.S. EPA Region IX

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

[Signature]  
Steven L. Jawgiel  
Chief Judicial Officer  
U.S. EPA Region IX

Date: 08/04/14

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER in conjunction with an Expedited Settlement Agreement (ESA) in the matter of Dole Packaged Foods LLC [Docket Number CAA(112R)-09-2014-0004] has been signed by the Regional Judicial Officer (dated August 4, 2014) and has been filed with the Regional Hearing Clerk (file date August 5, 2014).

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

BY FIRST CLASS MAIL:  
(With Return Receipt)

Respondent -


Michelle Schlefstein  
DOLE PACKAGED FOODS LLC  
7916 West Bellevue  
Atwater, CA 95301

HAND DELIVERED:

Complainant -  
(By Counsel)

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

Dated at San Francisco, CA, this Sixth day of August, 2014;

  
\_\_\_\_\_  
Steven Armsey  
Interim Regional Hearing Clerk  
EPA, Region 9



**Penalty Calculation**

Corporate Name:  
Corporate Address:  
Facility Name: Dole Packaged Foods, LLC  
Facility Address: 7916 West Bellevue, Atwater, CA 95301

**SUMMARY OF VIOLATIONS: (See attached Base Penalty \$Cost Matrix)**

40 C.F.R. Part 68.65(d)(1) = \$ 600  
40 C.F.R. Part 68.65(d)(2) = \$1,500  
40 C.F.R. Part 68.67(e) = \$1,500  
40 C.F.R. Part 68.69(d) = \$ 900

Sub-total: \$4,500

Adjusted Total Penalty: **\$4,500** (See penalty adjustment calculation below)

**PENALTY ADJUSTMENT CALCULATION:**

Facility RMP ID #: 1000 0014 1786  
Program Level: 3  
Number of Employees: 500  
Chemical / Quantity Reported: Anhydrous Ammonia /126,303lbs.  
Threshold Quantity (TQ): 10,000 lbs  
Times TQ: > 10

**Times TQ for chemical in process**

# of Employees	1-5	5-10	>10	Multiplier
0 - 9	0.4	0.6	0.8	
10 - 100	0.6	0.8	1.0	
>100	1.0	1.0	1.0	

Adjusted Penalty Calculation: Base/Sub-total x Multiplier

Base Penalty/sub-total = \$4,500  
Base x Multiplier = \$4,500 (1.0) =

**\$4,500**

Final Adjusted Penalty



# U.S. Environmental Protection Agency Miscellaneous Payment Form

\* Denotes a required field

\*Individual or Business:  Individual  Business

\*Debtor Name: Dole Packaged Foods, LLC.

\*Address: 7916 W. Bellevue Road \*City: Atwater

\*State: CA \*Zip: 95301

\*Phone Number: (209) 358-5643 Email Address: Michelle.Schlefstein@Doleintl.com

\*Type of Payment:

\*Invoice #:

RIN# or Bill#  (i.e. 05-RIN-0101-06 or 2750608F101)

Site ID or Bill#  (i.e. 05J3 or 2750630T101)

Court Order# or Bill# CAA (112r)-09-2014-\_\_\_ (i.e. CWA-05-2006-0101 or 2750643W101)

Citation# or Bill#  (i.e. NAV-9-06-125 or 2750606U101)

Bill# or DCN (Travel)  (i.e. 0563XMT100 or 27C0607M101)

Bill# or description  (i.e. Jury Duty or Permit Fee)

\*Payment Amount: \$ 4,500.00

Installments?

Region           

Comments regarding this payment:

\* Are you paying for yourself or another party?  Self Payment  Third Party Payment

Third Party Debtor Name:

**Online Payment****Step 3: Confirm Payment**

1 | 2 | 3

**Thank you.****Your transaction has been successfully completed.****Pay.gov Tracking Information****Application Name:** EPA Miscellaneous Payments**Pay.gov Tracking ID:** 25FMKLH4**Agency Tracking ID:** 74615248555**Transaction Date and Time:** 05/12/2014 17:43 EDT**Payment Summary**

<b>Address Information</b>	<b>Account Information</b>	<b>Payment Information</b>
<b>Account Holder Name:</b> Russell Asai 7916 W. Bellevue <b>Billing Address:</b> Road <b>Billing Address 2:</b> <b>City:</b> Atwater <b>State / Province:</b> CA <b>Zip / Postal Code:</b> 95301 <b>Country:</b> USA	<b>Card Type:</b> Visa <b>Card Number:</b> *****6064	<b>Payment Amount:</b> \$4,500.00 <b>Transaction Date and Time:</b> 05/12/2014 and Time: 17:43 EDT

## Michelle Schlefstein

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**From:** paygovadmin@mail.doc.twai.gov  
**Sent:** Monday, May 12, 2014 2:43 PM  
**To:** Michelle Schlefstein  
**Subject:** Pay.gov Payment Confirmation: EPA Miscellaneous Payments

Your payment has been submitted to Pay.gov and the details are below. If you have any questions or you wish to cancel this payment, please contact Craig Steffen at (513) 487-2091.

Application Name: EPA Miscellaneous Payments Pay.gov Tracking ID: 25FMKLH4 Agency Tracking ID: 74615248555  
Transaction Type: Sale Transaction Date: May 12, 2014 5:43:10 PM

Account Holder Name: Russell Asai  
Transaction Amount: \$4,500.00  
Billing Address: 7916 W. Bellevue Road  
City: Atwater  
State/Province: CA  
Zip/Postal Code: 95301  
Country: USA  
Card Type: Visa  
Card Number: \*\*\*\*\*6064

THIS IS AN AUTOMATED MESSAGE. PLEASE DO NOT REPLY.