

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

DOCKET NO: CAA (112r)-09-2018-0013

This ESA is issued to: Foster Farms Livingston
655 Davis Street
Livingston, CA 95206

** FILED **
26SEP2018 - 03:17PM
U.S.EPA - Region 09

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Foster Farms Livingston; 655 Davis Street, Livingston, CA 95334

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region 9, by its duly delegated official, Enrique Manzanilla, Superfund Director, and Foster Farms, Livingston ("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, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

Following its April 26, 2017 inspection, EPA alleges Respondent's failure to:

- 1) Comply with the requirements of 40 C.F.R. § 68.65(d)(2) in that the Company did not document that process equipment complies with recognized and generally accepted good engineering practices (RAGAGEP); via the inspectors observed at the Facility: Inadequate labeling of the process piping and equipment throughout the system, in contradiction to the American National Standards Institute (ANSI) and American Society of Mechanical Engineers (ASME) standard no. A13.1.2007 "Standard for the Identification of Pipes" and the International Institute of Ammonia Refrigeration ("IIAR") Bulletin 114 (2014) "**Guidelines for Identification of Ammonia Refrigeration Piping and System Components,**" which specify requirements for the labeling and other identification of ammonia refrigeration system piping and other componentry.
- 2) Certain process engine rooms did not have external emergency shutdown and/or ventilation switches, as required by ANSI/IIAR 2 "Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems", Section 13.1.13 Refrigeration Machinery Remote Controls, which requires that remote emergency shutdown control for refrigerant compressors, refrigerant pumps, and normally closed automatic refrigerant valves within the machinery room, shall be provided immediately outside the designated principle exterior machinery room door, and Section 13.3.11 Ventilation Remote Controls which requires that remote controls for the emergency mechanical ventilation systems shall be provided and be located immediately outside the designated principle exterior machinery room door.
- 3) Comply with the requirements of 40 C.F.R. § 68.69(a)(3) in that the Company did not include in the Operating Procedures "High Pressure Receiver SOP-PL107" and "High Stage Screw Compressor SOP-DELI 104" control measures to be taken if physical contact or airborne exposure occurs, or any required PPE.

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 **\$4,200**.

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 **\$4,200** 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:

Angie Proboszcz (SFD-9-3)
U.S. Environmental Protection Agency
Region 9
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 9 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 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 – Foster Farms Livingston

Signature: Tim Baker

Date: 9/6/18

Name (print): ~~David Duke~~ TIM BAKER

Title (print): ~~Environmental Manager~~ MAINTENANCE MANAGER

FOR COMPLAINANT:

Enrique Manzanilla
Enrique Manzanilla
Superfund Director
U.S. EPA Region 9

Date: 9/14/18

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

Steven L. Jawgiel
Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA Region 9

Date: 09/26/18

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Consent Agreement and Final Order in the matter of Foster Farms Livingston [Docket Number CAA(112R)-09-2018-0013], has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

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

BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent -

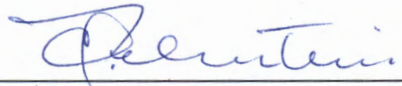
Mr. Tim Baker
Maintenance Manager
Foster Farms Livingston
655 Davis Street
Livingston, CA 95334

HAND DELIVERED:

Complainant -
(By Counsel)

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

Dated at San Francisco, CA, 9/27, 2018;



for: Steven Armsey
Regional Hearing Clerk
EPA, Region 9