

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

9-19-2017

DOCKET NO:

CAA (112r)-09-2017-0008

** FILED **

26SEP2017 - 03:50PM

This ESA is issued to:

Americold Logistics LLC - #75141
700 Malaga Place,
Ontario, CA 91761

U.S.EPA - Region 09

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Americold Logistics LLC - #75141; 700 Malaga Place, Ontario, CA 91761

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 Americold Logistics LLC - #75141 ("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

Failure to:

- 1) Comply with the requirements of 40 C.F.R. §68.67(7)(g)(e) to retain PHA records for the life of the process, although the Company has had a registered RMP since 1999, the Company was unable to provide documentation of Process Hazard Assessments having been conducted for its regulated process prior to 2006.
- 2) Comply with the requirements of 40 C.F.R. §68.69(a)(1) at the time of the inspection (May 18, 2016) in that the Company's Standard Operating Procedure for the two oil draining procedures did not indicate any steps at all for any operating phase. The Standard Operation Procedure for charging the ammonia system is missing steps for temporary operations, emergency operations, and startup following a turnaround or after emergency shutdown. The new and corrected operating procedures are dated and certified April 28, 2017.
- 3) Comply with the requirements of 40 C.F.R. § 68.79(d), where the Company failed to promptly determine and document an appropriate response to findings of its 2011 compliance audit. Five deficiencies took more than 4-5 years to resolve and concluded in 2015 and 2016, respectively.

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 \$2340.

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 \$2340 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 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 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 – Americold Logistics LLC - #75141

Signature: _____

Date: 9/20/17

Name (print): Anthony Espinoza

Title (print): General Manager

FOR COMPLAINANT:

for/ Enrique Marzanilla
Superfund Director
U.S. EPA Region IX

Date: 9/21/17

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 IX

Date: 09/25/17

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Expedited Settlement Agreement (ESA) in the matter of Americold Logistics LLC - #75141, [Docket Number CAA(112R)-09-2017-~~0008~~], 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:

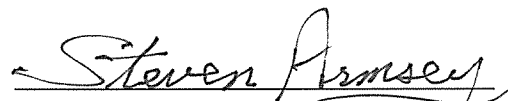
BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent - Mr. Anthony Espinoza
General Manager
Americold Logistics LLC - #75141
700 Malaga Place
Ontario, CA 91761

HAND DELIVERED:

Complainant - Andrew Helmlinger
(By Counsel) Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated at San Francisco, CA, Sept. 26, 2017;


Steven Armsey
Regional Hearing Clerk
EPA, Region 9