



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FILED

2013 JAN 23 AM 11:13

US EPA - REGION IX
HEARING CLERK

DOCKET NO: EPCRA(312)-09-2013-0004
This ESA is issued to: Pepsi Cola Bottling Company of Guam
At: 210 Rojas St., Harmon Industrial Park, Tamuning, Guam 96932
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 the Pepsi Cola Bottling Company of Guam ("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

The EPA alleges that Respondent, owner and operator of the facility at 210 Rojas St., Harmon Industrial Park, Tamuning, Guam 96932 ("Facility"), failed to timely submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form) as described in 40 CFR § 370.25 and 40 CFR Part 370, Subpart D, or the state equivalent) for the years 2008, 2009, 2010, and 2011 as required by Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations set forth at 40 CFR Part 370. Under Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 CFR Part 370, Respondent was required to submit its Tier I or Tier II form for the years 2008, 2009, 2010 and 2011 on or before March 1, 2009, March 1, 2010, March 1, 2011, and March 1, 2012, respectively.

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 by submitting to Guam EPA a complete and accurate Tier II report for calendar year 2011, 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 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

In the alternative, Respondent may pay online through the Department of Treasury at WWW.PAY.GOV. (Enter SFO 1.1 in search field. Open form and complete required fields).

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:

Jeremy Johnstone
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 30 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 – Pepsi Cola Bottling Company of Guam

Signature: _____

Name (print): _____

Title (print): _____

Date: 12/21/12

FOR COMPLAINANT:

Cor _____

Jane Diamond
Superfund Director
U.S. EPA Region IX

Date: 17 January 2013

IT IS SO ORDERED:

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

Date: 01/22/13

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement in the matter of Pepsi Cola Bottling Company of Guam (**Docket #: EPCRA-09-2013-0004**) 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:

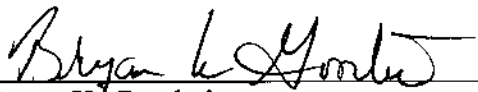
A copy was mailed via CERTIFIED MAIL to:

John Denight
General Manager
Pepsi Cola Bottling Company of Guam
Harmon Industrial Park
210 Rojas Street
Tamuning, Guam 96932

CERTIFIED MAIL NUMBER: 7001 0360 0000 3640 5944

A 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

1/22/13
Date



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

JAN 23 2013

John Denight, General Manager
Pepsi Cola Bottling Company of Guam
210 Rojas St.
Harmon Industrial Park
Tamuning, Guam 96932

Re: Pepsi Cola Bottling Company of Guam

Dear Mr. Denight:

This letter transmits a copy of the fully executed Expedited Settlement Agreements that resolve the alleged violations of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), by the Pepsi Cola Bottling Company of Guam. The EPCRA violations involve failure to submit complete a hazardous chemical inventory form for the Pepsi Cola Bottling Company of Guam for reporting years 2008, 2009, 2010 and 2011 as required by 40 CFR Part 370.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the Emergency Planning and Community Right-To-Know Act requirements, please feel free to contact Jeremy Johnstone of my staff at (415) 972-3499.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Diamond".

Jane Diamond
Director, Superfund Division

Enclosure

cc (w/ enclosure):

Walter Leon Guerrero, Guam EPA