

FILED

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

2013 APR 29 AM 11:46

US EPA - REGION IX
HEARING CLERK

DOCKET NO: CAA (112r)-09-2013-0002

This ESA is issued to: Albertsons Distribution Center # 8261
200 North Puente
Brea, CA 92621

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Albertsons Distribution Center # 8261, 200 North Puente, Brea, CA 92621

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 Albertsons Distribution Center # 8261 ("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) Assume the release rate for the worst case release scenario (WCS) analysis to be the total quantity divided by 10, if there are no passive mitigation systems in place as required by Section 112(r)(7) of the Clean Air Act (the Act), and 40 C.F.R. §68.25(c)(1).
- 2) Certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.69(c).
- 3) Provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.71(b).
- 4) Ensure the frequency of inspections and tests of process equipment is consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.73(d)(3).
- 5) Correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.73(e).

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 \$5,100.

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 send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of \$5,100 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 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.

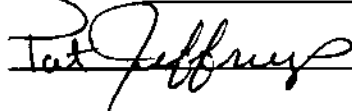
If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 21 days of the date of Respondent's receipt of the proposed ESA, the ESA is withdrawn, without prejudice to EPA's ability to file an 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 – Albertsons Distribution Center # 8261

Signature: _____



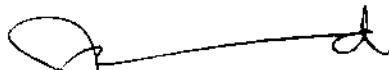
Date: _____

3/28/13

Name (print): Pat Jeffreys

Title (print): Facility Maintenance Manager

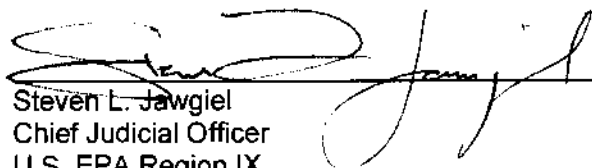
FOR COMPLAINANT:



Date: 4/17/2013

Jane Diamond
Superfund Director
U.S. EPA Region IX

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



Date: 04/24/13

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

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Expedited Settlement Agreement with Albertsons Distribution Center #8261 (**Docket #: CAA(112r)-09-2013-0002**) 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:

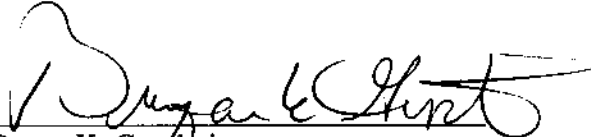
A copy was mailed via CERTIFIED MAIL to:

Mr. Pat Jeffreys
Albertsons Distribution Center #8261
200 North Puente
Brea, CA 92621

CERTIFIED MAIL NUMBER: 7001 0360 0000 3640 7412

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

4/29/13
Date



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

CERTIFIED MAIL NO: 7001 0360 0000 3640 7412
Return Receipt Requested

APR 23 2013

Mr. Pat Jeffreys
Facility Maintenance Manager
Albertson's Distribution Center #8261
200 North Puente
Brea, CA 92621

Re: Albertson's Distribution Center #8261, 200 North Puente, Brea, CA 92621
EPA Facility ID # 100000071165

Dear Mr. Jeffreys,

This letter transmits a copy of the fully executed Expedited Settlement Agreement that resolves the alleged violations of Clean Air Act (CAA) Section 112(r)(7) at Albertson's Distribution Center #8261, 200 North Puente, Brea, CA 92621. The violation is for failure to:

1) *Assume the release rate for the worst case release scenario (WCS) analysis to be the total quantity divided by 10, if there are no passive mitigation systems in place as required by Section 112(r)(7) of the Clean Air Act (the Act), and 40 C.F.R. §68.25(c)(1).*

For the WCS the Facility used a release quantity of 21,480 pounds and a release rate of 1180 pounds/min with a resulting distance to endpoint of 1.2 miles. However, 21,480 pounds released over 10 minutes (per requirements) would yield a release rate of 2,148 pounds/minute. When RMP Comp was run using the revised release rate, a distance to endpoint of 1.7 miles was the result.

In the January 18, 2013 response to EPA's Notice of Inspection Findings and Request for Information, the Facility stated that the RMP reviewed by Mr. Johnstone during the October 26, 2012 inspection contained an apparent typo that indicated a release rate of 1180 pounds/min with a resulting distance to endpoint of 1.2 miles. On January 11, 2013, the Facility performed a WCS using RMP Comp software based on a release of 21,480 pounds from the largest vessel over a 10 minute period. The results indicated a release rate of 2,150 pounds/min and an estimated distance to toxic endpoint of 1.7 miles. The Facility corrected the information in RMP*Submit on January 15, 2012.

2) *Certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.69(c).*

All of the Standard Operating Procedures (SOPs) reviewed during EPA's inspection appear not to have been certified annually since 2009.

In their January 18, 2013 response to EPA the Facility submitted a copy of their annual certification

of operating procedures, dated April 23, 2012. They have also initiated a recurring internally generated work order to schedule and complete future annual certifications. Their 2013 certification is scheduled to begin on April 01, 2013.

3) *Provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.71(b).*

The last operator refresher training was conducted in January 2011. Although the training syllabus indicated that it was provided over 32 hours, it appeared to be general in nature and there was no indication that training was offered on the current operating procedures of the process.

The Facility submitted documentation of the required training, conducted January 14-16, 2013, in their January 18, 2013 response to EPA.

4) *Ensure the frequency of inspections and tests of process equipment is consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.73(d)(3).*

An annual inspection per International Institute of Ammonia Refrigeration (IIAR) Bulletin 109 was completed in August 2011; thus, the subsequent annual inspection was due no later than August 2012. However, as of the date of the inspection this subsequent annual inspection had not been completed.

In their January 18, 2013 response to EPA the Facility stated that they have begun reviewing previously completed inspections for content and frequency to ensure that they are consistent with manufacturer recommendations and good engineering practices. The annual inspection of the ammonia refrigeration system was conducted by Synergy Industrial Refrigeration between August 21 and November 5, 2012, and included a visual inspection of each piece of equipment. The Facility stated that future inspections will utilize the Bulletin 109 form to document consistency with manufacturer recommendations and good engineering practices.

5) *Correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation as required by Section 112(r)(7) of the Act, and 40 C.F.R. §68.73(e).*

The Facility was not able to provide any documentation indicating that deficiencies documented during the annual and 5 year inspections were corrected before further use or in a timely and safe manner.

In their January 18, 2013 response to EPA, the Facility stated that remaining action items from the Mechanical Integrity Inspection completed in 2009 have been prioritized and scheduled for completion. A summary of the costs associated with action items from the 2009 Mechanical Integrity Inspection and the 2010 Compliance Audit were included.


Other Observations/Recommendations -

1) *The Facility has a large number of open action items/recommendations from its Process Hazard Analysis (PHA), mechanical integrity inspections and compliance audits. These numerous items were tracked across several different word processing and spreadsheet applications with no relative priorities or risk rankings assigned to the various items. EPA later recommended that the Facility consider assigning priorities or risk rankings to the various items and institute a single, global tracking*

system. EPA also recommended that the Facility ensure that all such items are promptly addressed, documented and resolved in accordance with the identified schedule(s).

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) requirements, please feel free to contact Angie Proboszcz of my staff at (415) 972-3077.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Diamond', with a stylized flourish at the end.

Jane Diamond
Director, Superfund Division

Enclosures