

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

FILED

2011 SEP 21 PM 2:52

U.S. EPA REGION IX  
REGIONAL HEARING CLERK

DOCKET NO: CAA (112r)-09-2011-0021

This ESA is issued to: HP Hood Sacramento  
8340 Belvedere Ave.  
Sacramento, CA 95826

For: Violation of Section 112(r)(7) of the Clean Air Act.  
At: HP Hood Sacramento – 8340 Belvedere Ave. Sacramento, CA 95826

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 HP Hood Sacramento ("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

- 1) Failure to develop and implement written operating procedures that provide clear instructions or steps for safely conducting activities involved in each covered process consistent with the process safety information, or as required by Section 112(r)(7) of the Act and 40 CFR §§ 68.69(a)(1)(iii), 68.69(a)(1)(v), and 68.69(a)(1)(vii);
- 2) Failure to properly determine and document an appropriate response to each of the findings of the compliance audit and document that the deficiencies have been corrected as required by 40 CFR § 68.79(a)(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 **\$3,060.00**.

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 have sent an **Online Payment through the Department of Treasury: [WWW.PAY.GOV](http://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 **\$3,060.00** 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/Sheila Suarez (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, 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 – HP Hood Sacramento


Signature: \_\_\_\_\_

Date: 8-10-11

Name (print): Timothy Linder

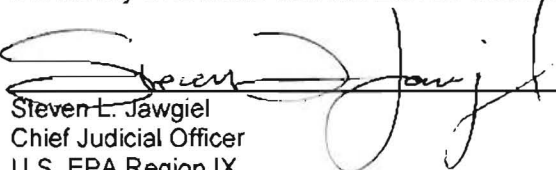
Title (print): EHS Manager

FOR COMPLAINANT:

*JD*  
  
\_\_\_\_\_  
Jane Diamond  
Superfund Director  
U.S. EPA Region IX

Date: 14 September 2011

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

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

Date: 09/20/11

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order against **HP Hood (Docket #: CAA(112r)-09-2011-0021)** 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:

Timothy Linder  
EHS Manager  
HP Hood  
8340 Belvedere Avenue  
Sacramento, CA 95826

**CERTIFIED MAIL NUMBER:** 7008-1830-0002-6279-4120

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Michael Hingerty, 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

\_\_\_\_\_  
Date 9/21/11



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

CERTIFIED MAIL #: 7008 1830 0002 6279 4120

SEP 21 2011

Timothy Linder  
EHS Manager  
HP Hood  
8340 Belvedere Ave  
Sacramento, CA 95826

Re: HP Hood

Dear Mr. Linder:

This letter transmits a copy of the fully executed Expedited Settlement Agreement (ESA) that resolves the alleged violations of the Emergency Planning and Community Right-To-Know Act (EPCRA). The EPCRA § 312 violation includes failure to maintain a process hazard analysis (PHA) and updates for each process. The facility failed to develop and implement written operating procedures that provide instructions or steps for conducting activities associated with each covered process consistent with the safety information at the facility. The facility failed to implement safe work practices to provide for the control of hazards during specific operations, such as lockout/tagout.

Thank you for your prompt attention to this matter. If you have any questions or need additional information about the EPCRA 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".

Jane Diamond  
Director, Superfund Division

Enclosures