



4410-15

NOTICE

DEPARTMENT OF JUSTICE

Notice of Lodging Of Proposed Joint Stipulation of Settlement
Under The Clean Air Act
The Comprehensive Environmental Response Compensation And Liability Act And
The Emergency Preparedness and Community Right-To-Know Act

On April 7, 2015, the Department of Justice lodged a proposed Joint Stipulation of Settlement with the United States District Court for the Southern District of Alabama in the lawsuit entitled United States of America v. Millard Refrigerated Services, LLC Civil Action No. 15-186.

The United States filed a complaint simultaneously with the filing of the Joint Stipulation of Settlement on April 7, 2015. The complaint in this action alleged that Defendant Millard Refrigerated Services, LLC, a Delaware limited liability company, f/k/a Millard Refrigerated Services, Inc. (“Millard”) violated Sections 112(r)(1) and 112(r)(7) of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7412(r)(1) and 7412(r)(7), Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9603, and Section 304 of the Emergency Preparedness and Community Right-To-Know Act (“EPCRA”), 42 U.S.C. § 11004, at its facility located in Theodore, Alabama (“the Facility”). Millard operated a cold storage facility with over 242,000 square feet of storage and used over 190,000 pounds of anhydrous ammonia (NH₃), a highly toxic substance, in its operations. Defendant allowed three releases of NH₃ over a three year period, with the third release of over 32,000 pounds of NH₃ in August of 2010 resulting in 154 hospitalizations.

The Complaint alleges that Millard violated every section of the Program 3 Risk Management Prevention (RMP) Program regulations for a total of 36 violations of the RMP Regulations, three

violations of the general duty of care under Section 112(r) of the CAA and four violations of the notice requirements under EPCRA and CERCLA. As regards the notice requirements, the Complaint alleges that Millard failed to timely notify the National Response Center, the State Emergency Response Center and the Local Emergency Planning Committee as required by CERCLA and EPCRA with regard to these releases.

Under the Joint Stipulation of Settlement, Millard will pay a civil penalty of \$3,009,855 in order to resolve these violations. There is no injunctive relief under this agreement as Defendant's parent, Millard Holdings, Inc., shut down the refrigerated portion of the Facility in July 2013 and is currently using it as a warehouse.

The publication of this notice opens a period for public comment on the Joint Stipulation of Settlement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States of America v. Millard Refrigerated Services, LLC Civil Action No. 15-186. D.J. Ref. No. 90-5-2-1-10384. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ B ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the Joint Stipulation of Settlement may be examined and downloaded at this Justice Department website: http://www.usdoj.gov/enrd/Consent_Decrees.html.

We will provide a paper copy of the Joint Stipulation of Settlement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ B ENRD
P.O. Box 7611
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$2.75 (25 cents per page reproduction costs for 11 pages) payable to the United States Treasury.

Henry S. Friedman,
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Division.

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