



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 Renner Blvd  
Lenexa, KANSAS 66219

2016 APR 15 PM 3:30

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2014-0010

**This ESA is issued to:** Primera Foods

**At:** 1260 Highway 18, Britt, Iowa 50423

**for violating Section 112(r)(7) of the Clean Air Act.**

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The United States Environmental Protection Agency, Region 7 (EPA) and Primera Foods (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, and Waste Management Division. The Respondent is Primera Foods, 1260 Highway 18, Britt, Iowa 50423.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in EPA's policy entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provision, 40 C.F.R. Part 68," dated January 5, 2004, are appropriate for administrative penalty action.

#### **ALLEGED VIOLATIONS**

On September 20, 2012, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 1260 Highway 18, Britt, Iowa, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings (RMP Findings), which is hereby incorporated by reference.

#### **SETTLEMENT**

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the

entire record, the parties enter into the ESA in order to settle the violations, described in the enclosed RMP Findings, for the total penalty amount of **\$8,580**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the RMP Findings, 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 CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, 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 in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$8,580** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The Docket Number of this ESA is CAA-07-2014-0010, and must be included on the check.

This original ESA, a copy of the completed RMP Findings, and a copy of the check must be sent by certified mail to:

George Hess  
AWMD/CRIB  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Blvd  
Lenexa, Kansas 66219.

A copy of the check must also be sent to:

Kathy M. Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the CAA referenced in the RMP Findings.

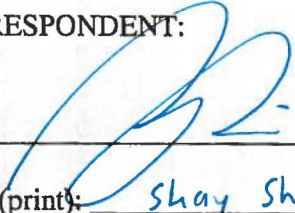
The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the RMP Findings.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:



Date: 13.3.2014

Name (print): Shay Shevi

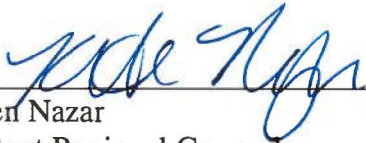
Title (print): Secretary  
Primera Foods

FOR COMPLAINANT:



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Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 4/11/14



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Kristen Nazar  
Assistant Regional Counsel  
Office of Regional Counsel  
EPA Region 7

Date: 4/8/14

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borromeo

Date: 4-15-2014

Karina Borromeo  
Regional Judicial Officer

**M.G. Waldbaum Company**  
**301 Carlson Parkway, Suite 400**  
**Minnetonka, MN 55305**

March 13, 2014

George Hess  
AWMD/CRIB  
U.S. Environmental Protection Agency – Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219

RE: Certification as to Correction of Violations  
Primera Foods Expedited Settlement Agreement  
EPA Docket No. CAA-07-2014-0010

Dear Mr. Hess:

On June 27, 2013, M.G. Waldbaum Company purchased certain assets from Primera Foods Corporation (“Primera”), including the production facility at Britt, Iowa. The alleged violations in this matter occurred while Primera owned the facility, and the expedited penalty amount (\$8,580) is being paid by Primera. However, we believe it is appropriate for M.G. Waldbaum Company, as the current owner of the facility, to certify to EPA that the alleged violations have been corrected.

**1. Alleged Deficiency: Safety Information 68.65 (c)(1)(i)**

**Response:** A Block Flow Diagram has been developed and is included as part of the Process Safety Information of the program

**2. Alleged Deficiency: Operating Procedures 68.69 (a)(1)(iv)**

**Response:** Standard Operating Procedures have been revised to include Emergency Shutdown conditions.

**3. Alleged Deficiency: Operating Procedures 68.69 (a)(3)(iii)**

**Response:** Standard Operating Procedures have been revised to include actions to be taken if exposure, airborne or physical, occurs during operation.

**4. Alleged Deficiency: Operating Procedures 68.69 (a)(4)**

**Response:** Standard Operating Procedures have been revised to include safety systems and their functions.

**5. Alleged Deficiency: Operating Procedures 68.69 (c)**

**Response:** A process has been implemented to ensure Standard Operating Procedures are reviewed at least annually. The last annual review was completed in November 2013.

**6. Alleged Deficiency: Operating Procedures 68.69 (a)(1)(iv)**

**Response:** This alleged deficiency was addressed in Response No. 2 above.

**7. Alleged Deficiency: Maintenance 68.73 (b)**

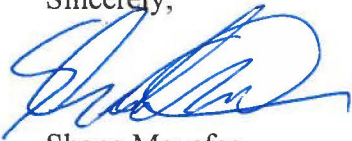
**Response:** Written procedures outlining covered process equipment have been implemented.

**8. Alleged Deficiency: Compliance Audits 68.58 (c)**

**Response:** The most recent Compliance Audit of the prevention program elements was completed in July of 2013.

Please contact me if any additional information is required.

Sincerely,



Shane Menefee  
Director of Environmental Engineering



Risk Management Program Inspection Findings  
CAA § 112(r) Violations

Primera Foods  
1260 Highway 18  
Britt, Iowa 50423  
Docket No. CAA-07-2014-0010

**COMPLETE THIS FORM AND RETURN IT WITH THE ESA.**

**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program \$600  
Safety Information [§ 68.65 (c)(1)(i)]  
The owner or operator failed to include in the Process safety information a block flow diagram or simplified process flow diagram detailing the technology of the process.

*How was this addressed:*

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Prevention Program \$1,200  
Operating Procedures [§ 68.69 (a)(1)(iv)]  
The owner or operator failed to prepare written operating procedures that include the conditions under which an emergency shutdown is required.

*How were these addressed:*

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Prevention Program \$1,200  
Operating Procedures [§ 68.69 (a)(3)(iii)]  
The owner or operator failed to include control measures to be taken if physical contact or airborne exposure occurs in operating procedures.

*How was this addressed:*

**VIOLATIONS**

**PENALTY AMOUNT**

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Prevention Program \$1,200

Operating Procedures [§ 68.69 (a)(1)(iv)]

The owner or operator failed to prepare written operating procedures that include the conditions under which an emergency shutdown is required.

*How were these addressed:*

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Prevention Program \$1,200

Maintenance [§ 68.73(b)]

The owner or operator failed to prepare written procedures for maintaining process equipment.

*How were these addressed:*

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Prevention Program \$1,200

Compliance Audits [§ 68.58(c)]

The owner or operator failed to evaluate compliance with the prevention program elements at least every 3 years thru a compliance audit.

*How were these addressed:*

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Risk Management Plan [§ 68.190(b)(43)] \$5,000

The owner operator at the time a new regulated substance was first present above a threshold quantity failed to submit.

Violation corrected prior to inspection no further action required

Total Unadjusted Penalty \$14,300

**VIOATIONS**

**PENALTY AMOUNT**

**Calculation of Adjusted Penalty**

- 1<sup>st</sup> Reference the multiplier for calculating proposed penalties for violations found during the RMP inspection matrix. Finding the row for number of employess is between 10-100 and column for 1-5 times the threshold quantity of 10,000 pounds of anhydrous ammonia as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 0.6  
Therefore, the multiplier for Primera Foods = 0.6
- 2<sup>nd</sup> Adjusted Penalty = \$14,300 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier)  
Adjusted Penalty = \$8,580.
- 3<sup>rd</sup> An Adjusted Penalty of \$8,580 would be assessed to Primera Foods for violations found during the RMP Compliance Inspection. The amount will be found in the ESA.

**Total Adjusted Penalty**

**\$8,580**

**This section must be also completed and signed by Primera Foods:**

The approximate cost to correct the above items: \$ \_\_\_\_\_

Compliance staff name: Shay Shari

Signed: [Signature] Date: 7.3.2014

IN THE MATTER OF Primera Foods, Respondent  
Docket No. CAA-07-2014-0010

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

nazar.kristen@epa.gov

Copy by First Class Mail to Respondent:

Mr. Emilio Escobar  
Primera Foods  
1260 Highway 18  
Britt, Iowa 50423

Dated: 4/16/14



Kathy Robinson  
Kathy Robinson  
Hearing Clerk, Region 7