

ENCLOSURE 2
EXPEDITED SETTLEMENT ALLEGED VIOLATIONS AND FINAL ADJUSTED PENALTY SUMMARY
Clean Air Act – Risk Management Program

Respondent: Zirkle Fruit Company
101 Benitz Road
Prosser, Washington 99350

Facility: Zirkle Fruit Co. Prosser
101 Benitz Road
Prosser, Washington 99350

Responsible Official: Scott Blackledge, Safety Manager
(509) 941-8714

Inspection Date: June 30, 2023

Inspection Time: 0830- 1200

Lead Inspector: Mhara Coffman, RMP/EPCRA Inspector and Case Officer
(206) 553-1236

Inspection Findings and Alleged Violations

RMP Submission Date

Initial Submission Date: 05-Sep-2000
Date of Latest Update: 07-Jun-2019
RMP Facility ID: 1000 0017 1832
Program Level: 3
Chemical Name: Ammonia (anhydrous)
Chemical Amount: 33,000 lbs
NACIS Code: 49312
Facility Type: Private Industry
Employees: 250

Description of Alleged Violations

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in Section 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

On June 30, 2023, EPA inspectors conducted an On-site Compliance Inspection at the Zirkle Fruit Company facility listed above. The following is a summary of the Alleged Violations of the Risk Management Program which were identified during the inspection.

1. Process Safety information: Zirkle Fruit Company did not ensure and document that the process is designed and maintained in compliance with recognized and generally accepted good engineering

practices. [68.65(d)(2)]. The facility did not install push bar doors at points of egress for engine rooms in Building B, D, and E [Reference IIAR 13.1.10.3]. The facility did not install emergency showers and eyewash stations directly adjacent to work areas for immediate emergency use for engine rooms in Building B and D [Reference IIAR 13.1.6.1, ANSI/ISEA Z358.1 – 2009].

2. Process Hazard Analysis (PHA): At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process. [68.67(f)]. The last two PHAs were conducted in 2016 and 2022. The 2022 PHA was completed six years after the 2016 PHA. The facility representatives attribute the six-year gap between PHAs due to the COVID-19 pandemic.
3. Process Hazard Analysis (PHA): Zirkle Fruit Company did not retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e) of this section for the life of the process. [68.67(g)]. Zirkle Fruit Company was unable to find their initial 2006 PHA that was done by the prior owner/operator, Holtzinger, C. M. Fruit Co. Inc. Zirkle Fruit Company had their 2016 and 2022 PHAs on file.
4. Compliance Audits: Zirkle Fruit Company has not certified that the ammonia refrigeration process was evaluated for compliance with the provisions of the prevention program at least every three years. [68.79(a)]. The 2022 compliance audit was completed four years after the 2018 compliance audit. The Zirkle Fruit Company was not signing the 2018 and 2022 compliance audit reports to certify them.
5. Hazard Assessment: Zirkle Fruit Company did not review and update their offsite consequence analyses at least once every five years. [68.36(a)]. The 2021 hazard assessment review and update was completed seven years after the 2014 review and update.
6. Mechanical Integrity: Zirkle Fruit Company did not 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. [68.73(e)]. The pressure relief valves (PRVs) located in the Building B, D, and E engine rooms were overdue for replacement with replacement dates of July 2020, April 2022, February 2023, and April 2023 [Reference IIAR Bulletin 110 6.6.3].
7. Pre-Startup Safety Review: Zirkle Fruit Company did not perform a pre-startup safety review given in paragraphs (b)(1) through (4) for a modified stationary source when the modification is significant enough to require a change in the process safety information. [68.77]. Zirkle Fruit Company did not conduct a Pre-Startup Safety Review (PSSR) for the inorganics hydrocooler that was identified by the Doubl Kold Mechanical Integrity (MI) Audit performed October 17, 2022.

Final Adjusted Penalty Calculation

The Final Adjusted Penalty for an RMP ESA is a non-negotiable penalty offer.

First the Unadjusted Penalty is calculated using the Risk Management Program Expedited Settlement Penalty Sheet, Enclosure 2. Each Alleged Violation listed above is assigned a penalty amount in the spreadsheet and the Unadjusted Penalty is determined by adding all the penalty amounts.

The Unadjusted Penalty is multiplied by the Size-Threshold Quantity Multiplier to determine the Adjusted Penalty. The Size-Threshold Quantity Multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility. See the Multiplier Factor tables below.

$$\text{Adjusted Penalty} = \text{Unadjusted Penalty} \times \text{Size-Threshold Quantity Multiplier}$$

Unadjusted Penalty Calculation

Adding the penalty numbers in the Risk Management Program Expedited Settlement Penalty Sheet, an unadjusted penalty of \$9,100 is derived.

Size-Threshold Quantity Multiplier

According to the RMP, the facility employs more than 100 people and uses and/or stores 1 to 5 times the threshold amount of anhydrous ammonia, which is regulated under the Clean Air Act Section 112(r) Risk Management Program. Using the tables below, the multiplier is determined to be 1.0.

Adjusted Penalty Calculation

Adjusted Penalty = \$9,100 (Unadjusted Penalty) x 1.0 (Size-Threshold Multiplier)

Final Adjusted Penalty = \$9,100

EXPEDITED SETTLEMENT PENALTY MATRIX
Multiplier Factor for Calculating Proposed Penalties for RMP Violations

Private Industries

# of Employees	1 – 5*	5 – 10*	10*
0 – 9	0.4	0.6	0.8
10 – 100	0.6	0.8	1.0
100	1.0	1.0	1.0

Governmental Entities

(Primarily public drinking water and wastewater systems)

Total Population Served	1 – 5*	5 – 10*	10*
1 – 10,000	0.2	0.4	0.6
10,001 – 100,000	0.4	0.6	0.8
100,000	0.6	0.8	1.0

* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.