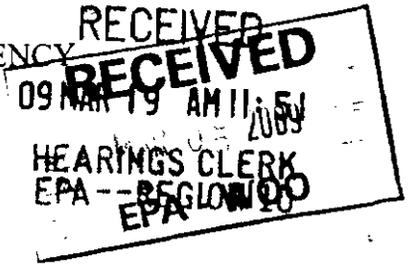


BEFORE THE U.S. ENVIRONMENTAL PROTECTION AGENCY

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: EPCRA-10-2009-0094
This ESA is issued to: Tri-Way Industries, Inc.
Auburn, WA



for violating section 312 of the Emergency Planning and Community Right-To-Know Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 10 (EPA), by its representative, the Manager, Emergency Response Unit and by Tri-Way Industries, Inc. (Respondent) pursuant to section 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045, and 40 C.F.R. § 22.13(b).

ALLEGED VIOLATION

EPA alleges that Respondent, owner and/or operator of the facility at 506 44th Street NW, Auburn, WA 98001 (Facility), failed to timely submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form as described in 40 C.F.R. § 370.25 and 40 C.F.R. Part 370, Subpart D) for the year 2007 as required by section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370. Under section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, Respondent was required to submit its Tier I or Tier II form for the year 2007 on or before March 1, 2008.

SETTLEMENT

EPA and Respondent agree that settlement of this matter for a penalty of **TWO THOUSAND DOLLARS (\$ 2,000)** is in the public interest. In signing this ESA, Respondent: (1) admits that Respondent is subject to the requirements of section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; and (5) waives any right to contest the allegations contained herein.

By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violation has been corrected, and (2) Respondent is submitting payment of the civil penalty with this ESA. Each party shall bear its own costs and fees, if any.

The civil penalty of **TWO THOUSAND DOLLARS (\$ 2,000)** must be paid by cashier's or certified check to the "Treasurer, United States of America." The Docket Number of this ESA (located at the top left corner) must be included on the check. Send the penalty payment with a copy of the signed ESA by certified mail to:

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

Send the *signed, original* ESA and a copy of the check by certified mail to:

EPA Washington Operations Office
 300 Desmond Dr. SE, Suite 102
 Lacey, WA 98503
 Attn: Suzanne E. Powers, EPCRA Enforcement Coordinator

Upon Respondent's submission of the original signed ESA, EPA will take no further civil action against Respondent for the alleged violations of EPCRA identified in the ESA. EPA does not waive any right to file an enforcement action for any other past, present, or future violations by Respondent of EPCRA or any other federal statute or regulation.

If Respondent does not return the signed, original ESA with an attached copy of the check to EPA at the above address in correct form within 45 days of the date of Respondent's receipt of this ESA (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.

This ESA is binding on the parties signing below.

In accordance with 40 C.F.R. § 22.31(b), this ESA is effective upon filing with the Regional Hearing Clerk.

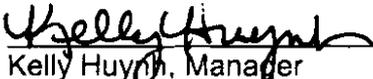
IT IS SO AGREED,

FOR RESPONDENT:

Signature: 
 Name (print): KEN D. SMITH
 Title (print): VP/GM

Date: 2/23/09

FOR COMPLAINANT:


 Kelly Huynh, Manager
 Emergency Response Unit
 Office of Environmental Cleanup

Date: 3/11/09

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


 Regional Judicial Officer
 EPA Region 10

Date: 3-18-09

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: Tri-Way Industries, Inc., DOCKET NO.: EPCRA-10-2009-0094** was filed with the Regional Hearing Clerk on March 19, 2009.

On March 19, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:

Deborah Hilsman, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on March 19, 2009, to:

Ken D. Smith
Vice President and General Manager
Tri-Way Industries, Inc.
506 44th Street NW
Auburn, WA 98001

DATED this 19th day of March 2009.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10