



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

10 OCT 20 AM 8:11  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

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

**DOCKET NO.:** CAA-07-2010-0007

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

**At:** 5302 Stockyards Expressway, St. Joseph, Missouri 64504

**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 Triumph Foods, 5302 Stockyards Expressway, St. Joseph, Missouri 64504 (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 Triumph Foods, 5302 Stockyards Expressway, St. Joseph, Missouri 64504.

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, 2007, are appropriate for administrative penalty action.

#### ALLEGED VIOLATIONS

On August 19, 2009, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 5302 Stockyards Expressway, St. Joseph, Missouri 64504, 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 **\$4,050**.

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 **\$4,050** 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-07-2010-0007, 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:

Deanna Smith  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

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.

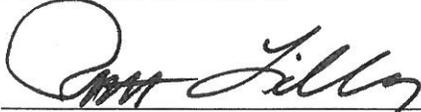
The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

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: 9/10/10

Name (print): R. PATT LILLY

Title (print): CHIEF ADMINISTRATIVE OFFICER  
Triumph Foods

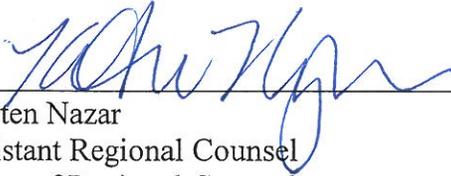
FOR COMPLAINANT:



Date: 9/22/10

for

Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7



Date: 9/20/10

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

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

Karina Borromeo

Date: Oct. 19, 2010

Karina Borromeo  
Regional Judicial Officer

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

Triumph Foods  
5302 Stockyards Expressway  
St. Joseph, Missouri 64504  
Docket No. CAA-07-2010-0007

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

**VIOLATIONS**

**PENALTY AMOUNT**

Hazard Assessment  
Worst-Case Release Scenario Analysis [§68.25(b)]

\$ 300

The owner or operator failed to correctly determine the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity, for determining the endpoint for the worst case toxic substance release.

*How was this addressed:*

Triumph Foods has recalculated the Worst-Case scenario using the RMP\*Comp (version 1.07) and has increased the volume of lost anhydrous ammonia from 30,000 lbs to 80,000 lbs.

Prevention Program  
Safety Information [§ 68.65(d)(1)(v)]

\$ 300

The owner or operator failed to include ventilation system design in the process safety information.

*How was this addressed:*

Documentation was obtained from Preston Refrigeration and placed into the written PSM program indicating that the ventilation system was designed per 2000 IMC and 2000 IEC.

Prevention Program  
Safety Information [§ 68.65(d)(1)(vi)]

\$ 300

The owner or operator failed to include design codes and standards employed in the process safety information.

**VIOLATIONS**

**PENALTY AMOUNT**

*How was this addressed:*

Documentation was obtained from Preston Refrigeration and placed into the written PSM program indicating that the Refrigeration System was designed and built per ASHRAE 15-2004 and IIAR 2000 Piping Guidelines.

Prevention Program

\$ 750

Process Hazard Analysis [§ 68.67(e)]

The owner or operator failed to establish a system to promptly address the team's findings and recommendations and assure that the recommendations are resolved in a timely manner and that the resolution is documented.

*How was this addressed:*

Triumph Foods developed and incorporated a PROCESS HAZARD ANALYSIS RECOMMENDATION LOG into the written PSM program. Open action items have been addressed and a joint PSM Management and Hourly Employee Team meets at least monthly to discuss and track resolution of any new or ongoing findings.

Prevention Program

\$ 750

Mechanical Integrity [§ 68.73(b)]

The owner or operator failed to establish and implement written procedures to maintain the ongoing integrity of covered process equipment.

*How was this addressed:*

Triumph Foods has revised the written PSM program to accurately describe how preventative maintenance and repairs are generated by an electronic software program, how the inspections / repairs are performed and how that results are both electronically and physically documented.

Prevention Program

\$ 750

Management of Change [§ 68.75(a)]

The owner or operator failed to prepare and implement written procedures to manage changes that affect a covered process.

*How was this addressed:*

Triumph Foods has revised the written PSM program to accurately describe how MOCs are to be created, reviewed, approved and documented.

**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program

\$ 150

Pre-startup Review [§ 68.77(b)(3)]

The owner or operator failed to document in the pre-startup safety review modifications to a stationary source to meet the requirements of the management of change.

*How was this addressed:*

Triumph Foods has revised the written PSM program to better describe how PSSRs are to be utilized to meet MOC requirements. Additional training has been done to ensure this process is understood by employees.

Prevention Program

\$ 300

Compliance Audits [§ 68.79(a)]

The owner or operator failed to certify that the stationary source has evaluated compliance with the provisions of the prevention program, i.e., a compliance audit has not been completed.

*How was this addressed:*

Triumph Foods was in the process of conducting a compliance audit at the time of the EPA audit, started on August 12, 2009, but it was not complete. The compliance audit was completed on October 23, 2009.

Prevention Program

\$ 300

Employee Participation [§ 68.83(a)]

The owner or operator failed to develop a written plan of action regarding the implementation of the employee participation in the process hazard analysis and on the development of the other elements of process safety management.

*How was this addressed:*

Triumph Foods has revised the written PSM program to more accurately reflect how employees participate in all elements of PSM as well as general safety programs.

Prevention Program

\$ 150

Hot Work Permit [§ 68.85(b)]

The owner or operator failed to include in their hot work permit the object(s) upon which hot work is to be performed.

**VIOLATIONS**

**PENALTY AMOUNT**

*How was this addressed:*

The Triumph Foods Hot Work Permits have been revised to include a section, "Object Worked On".

Total Unadjusted Penalty

\$4,050

**Calculation of Adjusted Penalty**

1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for number of employees greater than 100 and column for 10 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 1. Therefore, the multiplier for Triumph Foods = 1.

2<sup>nd</sup> Adjusted Penalty = \$4,050 (Unadjusted Penalty) X 1 (Size-Threshold Multiplier)  
Adjusted Penalty = \$4,050.

3<sup>rd</sup> An Adjusted Penalty of \$4,050 would be assessed to Triumph Foods for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement.

Total Adjusted Penalty

\$4,050

The approximate cost to correct the above items: \$ 8,918.<sup>00</sup>

Compliance staff name: STEVE ENYART

Signed: 

Date: 9/28/10

IN THE MATTER OF Triumph Foods, Respondent  
Docket No. CAA-07-2010-0007

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Kristen Nazar  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

R. Patt Lilly  
Chief Administrative Officer  
Triumph Foods  
5302 Stockyards Expressway  
St. Joseph, Missouri 64504

Dated: 10/20/10

  
Kathy Robinson  
Hearing Clerk, Region 7