

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7  
REGION VII

2015 APR 23 AM 8:52

IN THE MATTER OF )  
 )  
Milan Processing )  
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Docket No. CAA-07-2014-0023

ORDER

Pursuant to 40 C.F.R. § 22.5(a)(1), facsimile/electronic filing of page 4 of the Expedited Settlement Agreement (ESA) is authorized in this proceeding.

Dated: 4-23-15

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer



UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7

2015 APR 23 AM 8:52

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

### EXPEDITED SETTLEMENT AGREEMENT (ESA)

**DOCKET NO.:** CAA-07-2014-0023

**This ESA is issued to:** Milan Processing

**At:** 832 East Third St., Milan, MO 63556

**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 Milan Processing (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 Milan Processing, 832 East Third Street, Milan, Missouri 63556.

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 April 13, 2011, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 832 East Third Street, Milan, Missouri, 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 **\$6,300**.

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 **\$6,300** 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-07-2014-0023, 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:

Jodi Harper  
Chemical Risk Information Branch  
Air & Waste Management Division  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
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  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

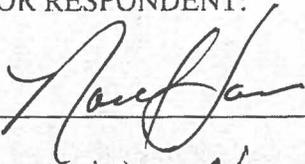
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the CAA referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

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: 8-12-14

Name (print): Norvel Lane

Title (print): Plant Manager  
Milan Processing

FOR COMPLAINANT:



*for* Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 4/20/15



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

Date: 4/16/15

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: 4-23-15

Risk Management Program Inspection Findings

CAA § 112(r) Violations

Milan Processing  
832 E. 3<sup>rd</sup> St.  
Milan, MO 63556  
Docket No. CAA-07-2014-0023

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

**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program

Process Safety Information [§ 68.65(d)(1)(i)]

\$ 600

The owner or operator failed to include in the process safety information the following for the equipment in the process: materials of construction.

How this was addressed: The information was added

Process Safety Information [§ 68.65(d)(1)(iii)]

\$ 600

The owner or operator failed to include in the process safety information the following for the equipment in the process: electrical classification.

How this was addressed: Information was added

Process Safety Information [§ 68.65(d)(1)(v)]

\$ 600

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

How this was addressed: Information was added

Prevention Program  
Process Hazard Analysis [§ 68.67(f)] \$ 2,500

The owner or operator failed to update and revalidate the PHA every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process.

How this was addressed: One year was missed but  
Owner did not own the business

Prevention Program  
Operating Procedures [§ 68.69(c)] \$ 1,200

The owner or operator failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary.

How this was addressed: Review date was added to  
documents

Prevention Program  
Compliance Audits [§ 68.79(a)] \$ 1,200

The owner or operator failed to certify that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed.

How this was addressed: Program is being followed

Compliance Audits [§ 68.79(e)] \$ 300

The owner or operator failed to retain the two most recent compliance audit reports.

How this was addressed: \_\_\_\_\_

Prevention Program

Contractors [§ 68.87(b)(1)]

\$ 900

The owner or operator failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.

How this was addressed: Program being followed

Contractors [§ 68.87(b)(2)]

The owner or operator failed to inform the contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.

How this was addressed: Documents being completed

Contractors [§ 68.87(b)(3)]

The owner or operator failed to explain to the contract owner or operator the applicable provisions of the emergency response or the emergency action program.

How this was addressed: Documents being completed

Contractors [§ 68.87(b)(4)]

The owner or operator failed to develop and implement safe work practices consistent with § 68.69(d) to control entrance, presence, and exit of the contract owner or operator and contract employees in the covered process areas.

How this was addressed: Sign in for all people entering facility

Contractors [§ 68.87(b)(5)]

\$ 600

The owner or operator failed to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as described at § 68.87(c)(1)-(c)(5).

How this was addressed: Performance reviewed

Risk Management Plan [§ 68.190(b)(1)]

\$ 2,000

The owner or operator failed to review and update the RMP and submit it to EPA within five years of the previous submittal.

How this was addressed: Owner did not own business at this time.

Total Unadjusted Penalty

\$ 10,500

**Calculation of Adjusted Penalty**

1. Milan Processing has 20 employees and 48,000 pounds maximum inventory of the RMP-regulated chemical. The threshold quantity for anhydrous ammonia is 10,000 pounds, thus Milan Processing has 4.8 times the threshold quantity. For private industry with 10-100 employees and 1-5 times the threshold quantity, a multiplier of 0.6 is appropriate.
2. Adjusted penalty = \$10,500 (unadjusted penalty) X 0.6 (size-threshold multiplier)
3. An adjusted penalty of \$6,300 would be assessed to Milan Processing for violations found during the RMP Compliance Inspection. This amount will be found in the ESA.

**Total Adjusted Penalty**

**\$ 6,300**

**This section must also be completed and signed by Milan Processing.**

The approximate cost to correct the above items: \$ 6000.00

Compliance staff name: \_\_\_\_\_

Signed: [Signature] Date: 8-12-14

IN THE MATTER OF Milan Processing, Respondent  
Docket No. CAA-07-2014-0023

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 by email to Attorney for Complainant:

nazar.kristen@epa.gov

Copy by First Class Mail to:

Norvel Lane, Plant Manager  
Milan Processing  
832 East Third Street  
Milan, Missouri 63556

Dated: 4/23/15



Kathy Robinson  
Hearing Clerk, Region 7