



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB - 3 2020

REPLY TO THE ATTENTION OF

SE-5J

James Christiana
Ammonia Supervisor
Lipari Foods, LLC
26700 Bunert Road
Warren, Michigan 48089

RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-20-ESA-008
Docket No. **CAA-05-2020-0003**

Dear Mr. Christiana:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. E. Hans", with a horizontal line extending to the right.

Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590



DOCKET NO: RMP-20-ESA-008

CAA-05-2020-0003

This ESA is issued to: Lipari Foods, LLC
at: 26700 Bunert Road, Warren, Michigan 48089
for violations of Section 112(r)(7) of the Clean Air Act.

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and Lipari Foods, LLC (“Respondent”), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly “the Parties”) have agreed that settling this action without the filing of a Complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement (“ESA”) and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA’s authority under Sections 113(a)(3) and (d) of the Clean Air Act (“Act”) 42 U.S.C. § 7413(a)(3) and (d). The Director of the Enforcement & Compliance Assurance Division, Region 5, EPA (“Complainant”) has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) to the Regional Judicial Officer, Office of Regional Counsel, EPA Region 5.

ALLEGED VIOLATIONS

On December 12, 2018, an authorized EPA representative conducted a compliance inspection of the Respondent’s facility to determine its compliance with the Risk Management Program (“RMP”) regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the December 12, 2018 inspection, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.65(c)(1)(iii) Respondent failed to have up to date process safety information pertaining to the technology of the process that included maximum intended inventory.
2. 40 C.F.R. § 68.65(d)(2) Respondent failed to document that equipment complies with recognized and generally accepted good engineering practices.

3. 40 C.F.R. § 68.67(c)(3) Respondent failed to perform a process hazard analysis that addressed hydraulic shock.
4. 40 C.F.R. § 68.69(c) Respondent failed to certify annually that operating procedures are current and accurate.
5. 40 C.F.R. § 68.71(a)(1) Respondent failed to train each employee presently involved in operating a process and each employee before being involved in operating a newly assigned process in an overview of the process and in the operating procedures.
6. 40 C.F.R. § 68.71(c) Respondent failed to ascertain and document that each employee involved in operating a process has received and understood the training required.
7. 40 C.F.R. § 68.73(d)(3) Respondent failed to conduct inspections and tests of process equipment that were consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.
8. 40 C.F.R. § 68.73(d)(4) Respondent failed to document each inspection and test that has been performed on process equipment.
9. 40 C.F.R. § 68.75(a) Respondent failed to implement written procedures to manage changes to process chemicals, technology, equipment and procedures; and, changes to stationary sources that affect a covered process.
10. 40 C.F.R. § 68.77(b)(4) Respondent failed to complete training of each employee involved in operating a process.
11. 40 C.F.R. § 68.87(b)(1) Respondent failed to obtain and evaluate information regarding a contract owner or operator's safety performance and programs.
12. 40 C.F.R. § 68.87(b)(2) Respondent failed to inform a contract owner or operator of the known potential fire, explosion or toxic release hazards related to the contractor's work and the process.
13. 40 C.F.R. § 68.87(b)(3) Respondent failed to explain to the contract owner or operator the applicable provisions of subpart E – Emergency Response.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of \$3,600.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent

waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$3,600 in payment of the full penalty amount to the following address:

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

The Docket Number of this ESA must be included on the check. (The Docket Number is RMP-20-ESA-008.)

This signed original ESA and a copy of the check must be sent by certified mail to:

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SE-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent 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 in this ESA.

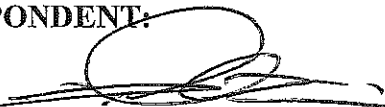
This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

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


**Expedited Settlement Agreement
In the Matter of Lipari Foods, LLC, Warren, Michigan
Docket No. CAA-05-2020-0003**

FOR RESPONDENT:

Signature: 
Name (print): James Christiana
Title (print): Ammonia Supervisor
Respondent

Date: 12-13-2019

FOR COMPLAINANT:

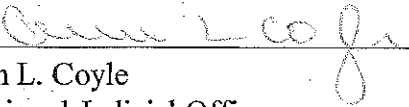

Michael D. Harris,
Director
Enforcement & Compliance Assurance Division

Date: 01/23/2020

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Date: 1/29/2020

Expedited Settlement Agreement
In the matter of: Lipari Foods, LLC
Docket Number: CAA-05-2020-0003

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, docket number CAA-05-2020-0003 which was filed on February 3, 2020 in the following manner to the following addresses:

Copy by E-mail to
Respondent:

James Christiana
jim_christiana@liparifoods.com

Copy by E-mail to
RMP Contact:

Monika Chrzaszcz
Chrzaszcz.monika@epa.gov

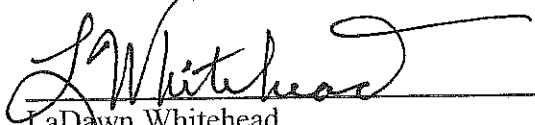
Copy by E-mail to
Attorney for Complainant:

Steven Kaiser
kaiser.steven@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: February 3, 2020



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CHECK NUMBER	458751	VENDOR	32023 U.S. ENVIRONMENTAL
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INVOICE #	INV DATE	INVOICE DESCRIPTION	GROSS AMT	DSC AMT	AMT PAID
121319	12132019	RMP-20-ESA-008	3,600.00	.00	3,600.00
		TOTALS-	3,600.00	.00	3,600.00



CAA-05-2020-0003

RETAIN THIS STATEMENT FOR YOUR RECORDS



Lipari Foods, Inc.
26661 Bunert Road
Warren, MI 48089

56-1512 The Huntington National Bank
441 Columbus, OH 43216

DATE
12132019

458751

PAY THREE THOUSAND SIX HUNDRED AND NO/100 DOLLARS

AMOUNT
\$3,600.00

TO THE ORDER OF U.S. ENVIRONMENTAL PROTECTION AGENCY FINES AND PEANLTIES

V. J. Lipari
AUTHORIZED SIGNATURE

⑈0458751⑈ ⑆044115126⑆ 01382323682⑈

Security features included. Details on back.

CHECK NUMBER	458751	VENDOR	32023 U.S. ENVIRONMENTAL	
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INVOICE #	INV DATE	INVOICE DESCRIPTION	GROSS AMT	DSC AMT	AMT PAID
121319	12132019	RMP-20-ESA-008	3,600.00	.00	3,600.00
		TOTALS-	3,600.00	.00	3,600.00

A circular stamp with the text 'REGIONAL HEARING CLERK' around the top edge, 'RECEIVED' in the center, 'FEB - 3 2020' below it, 'U.S. ENVIRONMENTAL PROTECTION AGENCY' at the bottom, and 'REGION 5' at the very bottom.

CAA-05-2020-0003

RETAIN THIS STATEMENT FOR YOUR RECORDS