

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

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901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)

Quality Chef Foods)
Cedar Rapids, IA)

Respondent)

) Docket No. CAA-07-2006-0130

) CONSENT AGREEMENT AND
) FINAL ORDER

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on April 20, 2006, pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), when Complainant issued a Complaint and Notice of Opportunity For Hearing ("Complaint") to Quality Chef Foods ("Respondent"). The Complaint charged Respondent with violation of the Chemical Accident Prevention Provisions, and specifically the requirement to submit a Risk Management Plan, 40 C.F.R. Part 68, Subpart G, promulgated pursuant to Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r). The Complaint proposed a total civil penalty of Forty-Nine Thousand Five Hundred Dollars (\$49,500.00) against Respondent for the violations.

The parties subsequently entered negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order is the result of such negotiations.

CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint.

2. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

3. Respondent consents to the assessment of the stated civil penalty in the Final Order and to the conditions specified in this Consent Agreement.

4. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.

5. Respondent agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Final Order.

6. Respondent and EPA each agree to bear their own costs and attorney's fees.

7. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent is presently in compliance with all requirements of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.

8. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

9. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

10. The settlement pursuant to this Consent Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty, in the amount of Thirty-Four Thousand Three Hundred Dollars (\$34,300.00). Payment will be due on or before thirty days following the execution of this Consent Agreement and Final Order. Payment by Respondent shall identify the Respondent by name and docket number and shall be made by certified or cashier's check payable to the United States Treasury and remitted to:

Mellon Bank
EPA - Region 7
Regional Hearing Clerk
P.O. Box 371099M
Pittsburgh, PA 15251

2. A copy of the check shall be forwarded to:

Robert W. Richards
Attorney, Office of Regional Counsel
U.S. EPA Region 7
901 N. 5th Street
Kansas City, Kansas 66101.

3. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

4. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 N. 5th Street, Kansas City, Kansas, 66101.

COMPLAINANT: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: *William A. Spratlin*
William A. Spratlin
Director
Air, RCRA and Toxics Division

Date: 9/14/06

By: *Robert W. Richards*
Robert W. Richards
Attorney
Office of Regional Counsel

Date: 8/17/06

RESPONDENT: QUALITY CHEF FOODS

By: *VP HNA Manufacturing*

Title: VP HNA Manufacturing

Date: 08/16/06

IT IS SO ORDERED. This Order shall become effective immediately.

Karina Borromeo
~~ROBERT L. PATRICK~~ Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7

Date: Sept. 19, 2006

IN THE MATTER OF Quality Chef Foods, Respondent
Docket No. CAA-07-2006-0130

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Robert W. Richards
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Leslie M. Britton
Senior Counsel, Law Department
H.J. Heinz Company
P.O. Box 57
Pittsburgh, Pennsylvania 15230-0057

Dated: 9/19/06



Kathy Robinson
Hearing Clerk, Region 7