



REGION 7

LENEXA, KS 66219

FILED

May 3, 2024

9:05AM

U.S. EPA REGION 7
HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2024-0062

This ESA is issued to: Five Star Cooperative

At: 16682A 245th St., Mason City, Iowa 50401

for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA or Complainant) and Five Star Cooperative (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 and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

Complainant, as duly delegated by the Administrator of the EPA, is the Director of the Region 7 Enforcement and Compliance Assurance Division. Respondent is Five Star Cooperative, an Iowa company registered to do business in Iowa and whose registered office in Iowa is located at 1949 North Linn Avenue (P.O. Box 151), New Hampton, Iowa 50659.

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 policies entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68," dated January 5, 2004, and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," dated December 20, 2013, are appropriate for administrative penalty actions.

ALLEGED VIOLATIONS

On or about August 8, 2023, Tetra Tech, Inc., as a representative of the U.S. Environmental Protection Agency, conducted a compliance inspection of Respondent's facility located at 16682A 245th Street, Mason City, Iowa 50401 to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated pursuant to Section 112(r)(7) of the CAA and found at Title 40 of the code of federal regulations at 40 C.F.R. Part 68. The EPA found that the Respondent had violated the CAPP as noted on the enclosed CAPP Inspection 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 CAPP Inspection Findings, for the total penalty amount of **\$360**.

This settlement is subject to the following terms and conditions:

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 CAPP Inspection Findings, 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 Respondent has corrected the violations listed in the enclosed CAPP Information Request Findings and has paid the penalty of \$360.

Penalty payment shall identify Respondent by name and docket number and shall be by electronic payment method described at <http://www.epa.gov/financial/makepayment> or by alternate method of certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197.

The electronically signed ESA, a scanned copy of the completed CAPP Inspection Findings, and a copy of the information confirming payment shall be sent via email to Lynelle Ladd at Ladd.Lynelle@epa.gov. In lieu of email, the signed original ESA, a copy of the completed CAPP Information Request Findings, and a copy of the information confirming payment must be sent by certified mail to:

Lynelle Ladd
Chemical Accident Prevention Section | Air Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Copies of these items must also be sent via email to:

Milady Peters
Office of Regional Counsel
peters.milady@epa.gov, and

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov.


Full payment of the ESA penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAPP Inspection Findings. The EPA reserves the right to take any enforcement action for any other violations of the CAA or any other statute.

This ESA is binding on the parties signing below.

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

Respondent consents to receiving the finalized ESA electronically at the following email address: *jpetersen@fivestarcoop.com*. Respondent understands that the Expedited Settlement Agreement will become publicly available upon ratification and filing.

FOR RESPONDENT:
Five Star Cooperative

Signature:  _____ Date 4/22/24

Name (print): Jesse Petersen

Email Address: jpetersen@fivestarcop.com

Title (print): Loss Prevention Manager

FOR COMPLAINANT:
U.S. Environmental Protection Agency

Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

Date: _____

Sara Hertz Wu
Acting Air and Cross-Cutting Issues Branch Chief
Office of Regional Counsel

Date: _____

I hereby ratify the ESA and incorporate it herein by reference.

IT IS SO ORDERED.

Karina Borrromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
(to be completed by EPA)

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

Copy via E-mail to Complainant:

Erin Weekley, *weekley.erin@epa.gov*
Milady Peters, *peters.milady@epa.gov*

Copy via E-mail to Respondent:

Five Star Cooperative
16682A 245th Street
Mason City, Iowa 50401
jpetersen@fivestarcop.com.

Dated this _____ day of _____, _____.

Signed