

2/25/2022

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EPA Region VIII  
Hearing Clerk



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>**

**DOCKET NO.: CAA-08-2022-0004**

**IN THE MATTER OF:** )  
 )  
**JBS USA FOOD COMPANY** ) **FINAL ORDER**  
 )  
 )  
 )  
 )  
**RESPONDENT** )

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Expedited Settlement Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Settlement Agreement, effective immediately upon filing this Expedited Settlement Agreement and Final Order.

**SO ORDERED THIS** 25th **DAY OF** February, **2022.**

**KATHERIN HALL**  
Digitally signed by  
KATHERIN HALL  
Date: 2022.02.25  
09:22:22 -07'00'  
\_\_\_\_\_  
Katherin E. Hall  
Regional Judicial Officer

## CERTIFICATE OF SERVICE

The undersigned certifies that the attached **EXPEDITED SETTLEMENT AGREEMENT** and the **FINAL ORDER** in the matter of **JBS USA FOOD COMPANY; DOCKET NO.: CAA-08-2022-0004** was filed with the Regional Hearing Clerk on February 28, 2022.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney, and sent via certified receipt email on February 28 2022, to:

Respondent

Mr. Zack Ireland, General Manager  
JBS Great Value Added  
zachary.ireland@jbssa.com

EPA Financial Center

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
Chalifoux.Jessica@epa.gov

February 28, 2022

**KATHERINE** Digitally signed by  
**TRIBBETT** KATHERINE TRIBBETT  
Date: 2022.02.28  
16:24:57 -07'00'

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Kate Tribbett  
Acting Regional Hearing Clerk

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

IN THE MATTER OF: )  
)  
**JBS USA Food Company** )  
**1770 Promontory Circle** )  
**Greeley, Colorado 80634** )  
)  
Respondent. )  
)  
)  
)  
)  
)

**Docket No.:** CAA-08-2022-0004

**EXPEDITED SETTLEMENT AGREEMENT**

AUTHORITY

1. This Expedited Settlement Agreement (ESA), which is intended to simultaneously commence and conclude this matter, is being entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated official, the Chief of the Air Enforcement and Toxics Branch of the Enforcement and Compliance Assurance Division, and **JBS USA Food Company** (Respondent). This matter is authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The EPA and Respondent agree that the EPA has jurisdiction over this matter pursuant to sections 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. §§ 7413(a)(3) and (d).
3. The EPA and the U.S. Department of Justice have determined, pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that the EPA may pursue this type of case through administrative enforcement.

RESPONDENT

4. The Respondent is a Delaware Corporation that is authorized to do business in the state of Colorado.
5. The Respondent is a "person" under section 302(e) of the Act. 42 U.S.C. § 7602(e).
6. Respondent is the owner or operator of JBS-Greeley Value Added (JBSGVA) a stationary source, located at 920 N. 7th Avenue, Greeley, Colorado 80631 (facility).

ALLEGED VIOLATIONS

7. On December 22, 2020 to March 25, 2021, an authorized representative of the EPA conducted an off-site compliance monitoring activity of Respondent's facility to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. part 68 under section 112(r)(7) of the Act. Based on the off-site monitoring activity, the EPA has determined that Respondent failed to review and update their RMP submission as required.
8. Respondent submitted an RMP Program Level 1 for JBSGVA on January 26, 2021. The facility had approximately 16,000 pounds of anhydrous ammonia, an RMP regulated chemical with a 10,000-

pound threshold, at the facility November 4, 2020. Respondent failed to submit the RMP, under § 68.150, no later than the date on which a regulated substance is first present above a threshold quantity in a new process, as required by § 68.190(b)(4).

9. Respondent submitted a revised RMP Program Level 3 for JBSGVA on March 25, 2021 and did not take into account the endpoint requirement defined in § 68.22(a). Respondent also failed to define the offsite impacts as required by 40 C.F.R. § 68.30(a), (b), (c), and (d).
10. The owner or operator must for each covered process, the registration shall include the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process. The Respondent used the wrong NAICS code and failed to round their quantity of the regulated substance in the March 25, 2021 RMP submission. The Respondent failed to comply with 40 C.F.R. § 68.160(b)(7).

### SETTLEMENT

11. In consideration of the factors contained in section 113(d)(1) of the Act and the entire record, the parties enter into this ESA in order to settle the violations referenced above for the total penalty amount of \$7,950.
12. This settlement is subject to the following terms and conditions with respect to the violations referenced above:
  - a. Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in this ESA, and consents to the assessment of the penalty as stated above.
  - b. Respondent waives its rights to a hearing afforded by section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA.
  - c. Each party to this action shall bear its own costs and attorney fees, if any.
  - d. Respondent waives any and all available rights to judicial or administrative review or other remedies that the Respondent may have with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
13. By signing this ESA Respondent certifies that (1) the alleged violations listed in paragraphs 8 through 10 have been corrected, and (2) Respondent is submitting payment of the civil penalty as described below:
  - a. Within 21 calendar days of receipt of this ESA, Respondent must pay the civil penalty using any method provided on the following website <https://www.epa.gov/financial/makepayment>;
  - b. **The following payment tracking number for this ESA must be included on either the check or as directed where to notate the EPA document number: ESA-R8-2022**

- c. Within 24 hours of payment, email proof of payment to Dan Webster at [webster.daniel@epa.gov](mailto:webster.daniel@epa.gov) (“proof of payment” means, as applicable, an electronic copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate payment has been made according to the EPA requirements, in the amount due, and identified with the docket number that appears on the final order).

14. The signed ESA must be received by EPA, no later than 21 calendar days after Respondent’s receipt of the ESA. The signed ESA must be sent by certified mail to:

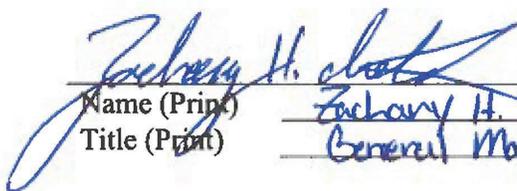
Dan Webster, 8ENF-AT-P  
US EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

Immediately after signing the ESA email a copy to Dan Webster at [webster.daniel@epa.gov](mailto:webster.daniel@epa.gov).

15. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
16. Once the Respondent receives a copy of the final order and pays in full the penalty assessment described above, the EPA agrees not to take any further civil administrative penalty action against Respondent for the violations alleged in this ESA.
17. This ESA does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this ESA is without prejudice to, all rights against Respondent with respect to all other matters including, but not limited to, the following:
  - a. Claims based on a failure by Respondent to meet a requirement of this ESA including any claims for costs that are caused by the Respondent’s failure to comply with this Agreement
  - b. Claims based on criminal liability
  - c. Claims based on any other violations of the Act or federal or state law
18. If the signed original ESA and proof of payment is not returned to the EPA Region 8 office at the above address in correct form by Respondent within 21 calendar days of the date of Respondent’s receipt of this ESA, the proposed ESA is withdrawn, without prejudice to the EPA’s ability to file an enforcement action for the violations identified in this ESA.
19. This ESA, upon incorporation into the final order, applies to and is binding upon the EPA and Respondent and Respondent’s successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent’s responsibilities under this ESA. This ESA contains all terms of the settlement agreed to by the parties.
20. Nothing in this ESA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

- 21. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this ESA and to bind Respondent to the terms and conditions of this ESA.
- 22. The parties consent to service of this ESA and final order by email at the following valid email addresses: weiner.marc@epa.gov (for Complainant), and howard.hagan@jbssa.com (for Respondent).
- 23. The EPA agrees to submit this ESA to the regional judicial officer with a request that it be incorporated into a final order.

For Respondent, JBS USA Food Company:


Date: 1/17/2022  
 Name (Print) Zachary H. Ireland  
 Title (Print) General Manager, JBS Greeley Value Added

For Complainant, United States Environmental Protection Agency, Region 8:

**SCOTT PATEFIELD** Digitally signed by SCOTT PATEFIELD  
 Date: 2022.01.18 14:46:05 -07'00' Date: \_\_\_\_\_  
 Scott Patefield, Branch Chief  
 Enforcement and Compliance Assurance Division