



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

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY REGION 7  
2015 DEC -2 AM 8:59

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2015-0036

**This ESA is issued to:** Tecumseh Poultry, LLC

**At:** 333 South Third Street, Tecumseh, Nebraska 68450

**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 Tecumseh Poultry, LLC (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 the EPA, is the Director of the Air and Waste Management Division. The Respondent is Tecumseh Poultry, LLC, 333 South Third Street, Tecumseh, Nebraska 68450.

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 14-15, 2015, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 333 South Third Street, Tecumseh, Nebraska, 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 **\$4,680**.

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 **\$4,680** 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-07-2015-0036, 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:

Christine Hoard  
Chemical Risk Information Branch  
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, the 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:

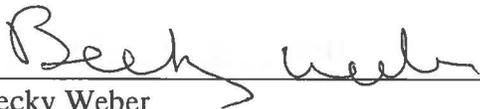
  
\_\_\_\_\_

Date: 11-16-15

Name (print): Kevin Siebert

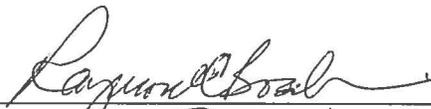
Title (print): President  
Tecumseh Poultry, LLC

FOR COMPLAINANT:



Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 11/20/15



~~Kent Johnson~~ RAYMOND C. BOSCH  
Assistant Regional Counsel  
Office of Regional Counsel  
EPA Region 7

Date: 11-23-15

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: 12-1-15

Risk Management Program Inspection Findings  
CAA § 112(r) Violations

Tecumseh Poultry, LLC  
333 South Third Street  
Tecumseh, Nebraska 68450  
Docket No. CAA-07-2015-0036

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Risk Management Plan [68.190(b)(1)] *No penalty assessed*  
The owner or operator failed to revise and update the RMP at least once every five years from the date of its initial submission or most recent update.  
*RMP was submitted March 27, 2015*

Prevention Program  
Safety Information [68.65(d)(1)(i)] \$600  
The owner or operator failed to provide Materials of construction on its piping system and components.  
*How will this be addressed in the future:*

*A QUALIFIED THIRD PARTY AUDITOR CONDUCTED NON-DESTRUCTIVE TESTING ON THE FACILITY AMMONIA SYSTEM. THE FRONT PAGES OF THE REPORTS ARE INCLUDED IN THIS PACKET. CHEMICAL ANALYSIS OF THE PIPING WAS ALSO PERFORMED TO ENSURE MATERIALS MEET INDUSTRY STANDARDS. THIS REPORT IS INCLUDED AS WELL. ALL CORRECTIVE ACTIONS HAVE BEEN SUBMITTED TO THE FACILITY HEATING/COOLING SUPERVISOR. COPIES OF THIS DOCUMENTATION WILL BE KEPT WITH FACILITY PSM/RMP PROGRAM AND DOCUMENTATION.*

Prevention Program  
Process Hazard Analysis [68.67(c)(2) & (5)] \$600  
The owner or operator failed to address in their 2013 PHA identification of any incident that had a likely potential for catastrophic consequences and Stationary source siting.  
*Facility addressed this post inspection.*

Prevention Program  
Operating Procedures [68.69(a)(1)] \$1,500  
The owner or operator failed to address all seven operating phases in its operating procedures.  
*Facility addressed this post inspection.*

Prevention Program  
Mechanical Integrity [68.73(b)] \$1,500  
The owner or operator failed to include written procedures for maintaining piping in its mechanical integrity program.  
*Facility addressed this post inspection.*

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.  
*Facility addressed this post inspection.*

Prevention Program  
Compliance Audits [68.79(d)] *No penalty assessed*  
The owner or operator failed to promptly determine and document an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected.  
*Facility addressed this post inspection.*

Prevention Program  
Incident Investigation [68.81(e)] \$1,200  
The owner or operator failed to establish a system to address and resolve the report findings and recommendations, and are the resolutions and corrective actions documented.  
*Facility addressed this post inspection.*

Contractors [68.87(b)(3)] \$600  
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.  
*Facility addressed this post inspection.*

Contractors [68.87(b)(4)] \$600  
The owner or operator failed to develop and implement safe work practices consistent with §68.69(d), to control the entrance, presence, and exit of the contract owner or operator and contract employees in the covered process area.  
*Facility addressed this post inspection.*

Contractors [68.87(c)(1-4)] *No penalty assessed*  
The owner or operator failed to ensure contractor compliance with requirements to train employees in safe work practices, hazard of the process, and applicable provisions of the emergency action plan; documentation of training completion; and that contract employees follow safety rules of the stationary source.  
*Facility addressed this post inspection.*

Contractors [68.87(c)(5)] *No penalty assessed*  
The owner or operator failed to ensure that contractor advised the facility of unique hazards posed by the contract work or hazards found by the contractor's work.  
*Facility addressed this post inspection.*

TOTAL \$7,800

Calculation of Adjusted Penalty

1<sup>st</sup> Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and the row for 1-5 times the threshold quantity of 10,000 pounds of flammable mixture as listed in 40 C. F. R. Part 68.130 for the amount in a process gives a multiplier factor of 0.6. Therefore, the multiplier for Tecumseh Poultry, LLC = 0.6

2<sup>nd</sup> Adjusted Penalty = \$7,800 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier)  
Adjusted Penalty = \$4,680

3<sup>rd</sup> An Adjusted Penalty of \$4,680 would be assessed to Tecumseh Poultry, LLC for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

**Total Adjusted Penalty** **\$4,680**

**Total Penalty** **\$4,680**

This section must be also completed and signed by **Tecumseh Poultry, LLC**:

The approximate cost to correct the above items: \$ 23,000.00

Compliance staff name: ERIC BARTH, COMPLIANCE MANAGER

Signed:  Date: 11/16/2015



IN THE MATTER OF Tecumseh Poultry, LLC, Respondent  
Docket No. CAA-07-2015-0036

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:

hoard.christine@epa.gov

Copy by email to:

Kevin Siebert, President  
Tecumseh Poultry, LLC  
333 South Third Street  
Tecumseh, Nebraska 68450

Dated: 12/2/15



Kathy Robinson  
Hearing Clerk, Region 7

