



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION 8 2019 SEP -4 PM 3:44  
 1595 WYNKOOP STREET  
 DENVER, CO 80202-1129  
 Phone 800-227-8917  
 http://www.epa.gov/region08

FILED  
 EPA REGION VIII  
 HEARING CLERK

DOCKET NO.: CAA-08-2019-0011

IN THE MATTER OF: )  
 )  
 DAILY'S PREMIUM MEATS, LLC ) FINAL ORDER  
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 )  
 )  
 )  
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 )  
 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 4<sup>th</sup> DAY OF September, 2019.

Katherin E. Hall  
 Katherin E. Hall  
 Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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IN THE MATTER OF:	)	
	)	Docket No.: CAA-08-2019-0011
Daily's Premium Meats, LLC	)	
3535 South 500 West	)	
Salt Lake City, Utah 84115	)	
	)	<b>EXPEDITED SETTLEMENT AGREEMENT</b>
Respondent.	)	<b>(CONSENT AGREEMENT and FINAL</b>
	)	<b>ORDER)</b>
	)	
	)	
	)	

AUTHORITY

1. This Expedited Settlement Agreement (also known as a Consent Agreement and Final Order, hereafter ESA), 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 Division Director, Enforcement and Compliance Assurance Division, and by Daily's Premium Meats, LLC (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 section 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 "person" under section 302(e) of the Act. 42 U.S.C. § 7602(e).
5. The Respondent is a Delaware limited liability company that is authorized to do business in the State of Utah.
6. Respondent is the owner or operator of a meat processing facility, a stationary source, located at 3535 South 500 West, Salt Lake City, Utah 84115 (Facility).

ALLEGED VIOLATIONS

7. On March 8, 2017, an authorized representative of the EPA conducted a compliance inspection 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 March 8, 2017 inspection, the EPA has determined that Respondent violated those regulations as stated in paragraphs 8 through 19, below.

8. Respondent failed to document persons responsible for implementing individual requirements of the risk management program and define the lines of authority through an organization chart or similar document as required by 40 C.F.R. § 68.15(c).
9. Respondent failed to have process-safety information pertaining to the equipment in the process that included materials of construction as required by 40 C.F.R. § 68.65(d)(1)(i).
10. Respondent failed to have process-safety information pertaining to the equipment in the process that included electrical classification as required by 40 C.F.R. § 68.65(d)(1)(iii).
11. Respondent failed to have process-safety information pertaining to the equipment in the process that included relief system design and design basis as required by 40 C.F.R. § 68.65(d)(1)(iv).
12. Respondent failed to have process-safety information pertaining to the equipment in the process that included ventilation system design as required by 40 C.F.R. § 68.65(d)(1)(v).
13. Respondent failed to document that equipment complies with recognized and generally accepted good engineering practices as required by 40 C.F.R. § 68.65(d)(2).
14. Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process-safety information, more specifically, steps for normal operations (defrosting of ammonia equipment) as required by 40 C.F.R. § 68.69(a)(1)(ii).
15. Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process-safety information, more specifically, operating limits that include consequences of deviation as required by 40 C.F.R. § 68.69(a)(2)(ii).
16. Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process-safety information, more specifically, safety and health considerations as required by 40 C.F.R. § 68.69(a)(3)(ii).
17. Respondent failed to conduct inspections and tests of process equipment that were consistent with applicable manufacturers' recommendations and good engineering practices as required by 40 C.F.R. § 68.73(d)(2).
18. 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 as required by 40 C.F.R. § 68.75(a).
19. Respondent failed to implement the pre-startup safety review prior to the introduction of a regulated substance when significant modifications were made to the existing source as required by 40 C.F.R. § 68.77(b).

SETTLEMENT

20. 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 \$10,000.00.
21. 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 which 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.
22. By signing this ESA Respondent certifies that: (1) the alleged violations listed in paragraphs 8 through 19 have been corrected, and (2) Respondent is submitting payment of the civil penalty as described below.

Within 20 days of receipt of this ESA, Respondent must send a cashier's check or certified check (payable to "Treasurer, United States of America") in the amount of \$10,000.00 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, MO 63197-9000

**The following Payment Tracking Number for this ESA must be included on the check:  
ESA-R8-CAA-2019-001**

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

Dan Webster  
RMP/EPCRA Technical Enforcement Program  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street [8ENF-AT-P]  
Denver, Colorado 80202-1129

23. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.

24. 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.
25. 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 which are caused by the Respondent's failure to comply with this Agreement;
  - b. claims based on criminal liability; and
  - c. claims based on any other violations of the Act or federal or state law.
26. If the signed original ESA with an attached copy of the check is not returned to the EPA Region 8 office at the above address in correct form by Respondent within 20 days of the date of Respondent's receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.
27. 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 parties.
28. Nothing in this ESA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

29. 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.
30. The parties agree to submit this ESA to the Regional Judicial Officer with a request that it be incorporated into a final order.

For Respondent, Daily's Premium Meats, LLC:

Marty Hast Date: 8/19/19  
Name (Print) Marty Hast  
Title (Print) Chief Operating Officer

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

[Signature] Date: 8/27/19  
Suzanne J. Bohan  
Division Director  
Enforcement and Compliance  
Assurance Division

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER** in the matter of **DAILY'S PREMIUM MEATS, LLC; DOCKET NO.: CAA-08-2019-0011** was filed with the Regional Hearing Clerk on September 4, 2019.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on September 4, 2019, to:

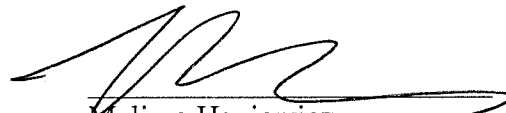
Respondent

Jennifer Chamo Nelson  
Senior Director of Environmental Affairs  
9000 W. 67<sup>th</sup> Street, Suite 200  
Shawnee Mission, Kansas 66202

And emailed to:

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

September 4, 2019

  
Melissa Haniewicz  
Regional Hearing Clerk