



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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7

2014 APR 29 AM 11:09

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2014-0009

This ESA is issued to: JBS Marshalltown Pork Facility
At: 402 North 10th Avenue, Marshalltown, Iowa 50158
for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and JBS Marshalltown Pork Facility (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 JBS Marshalltown Pork Facility, 402 North 10th Avenue, Marshalltown, Iowa 50158.

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 May 23, 2013, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 402 North 10th Avenue, Marshalltown, Iowa, 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 **\$5,250**.

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 **\$5,250** 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-07-2014-0009, 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

In the Matter of JBS Marshalltown Pork Facility
Docket No. CAA-07-2014-0009
Page 3 of 6

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:

Linda J. McDaniel

Date: 04/17/14

Name (print): LINDA J. MCDANIEL

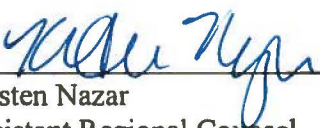
Title (print): CORPORATE PSM DIRECTOR
JBS Marshalltown Pork Facility

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 4/25/14



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 4/22/14

In the Matter of JBS Marshalltown Pork Facility
Docket No. CAA-07-2014-0009
Page 6 of 6

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: 4-29-14

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

JBS Marshalltown Pork Facility
402 North 10th Avenue
Marshalltown, Iowa 50158
Docket No. CAA-07-2014-0009

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program

Safety Information [68.65(d)(1)(iii)]

\$600

The owner or operator failed to compile written information regarding electrical classification.

Facility addressed this post inspection.

Prevention Program

Operating Procedures [68.69(c)]

\$1,200

The owner or operator failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary.

How was this addressed: Since the May 22nd 2013 EPA Audit this deficiency has been corrected through the implementation of a new online program. The APSM program requires the review and certification of the standard operating procedures to be completed annually. The program also notifies when the SOP's are due for review and certification by tracking dates and changes.

Prevention Program

Training [68.71(b)]

\$1,500

The owner or operator failed to provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process.

How was this addressed: The APSM program, noted previously, requires the training/review and certification of the SOP's annually. The APSM program also notifies us when the operators are due for training by tracking the dates of the previous year's training.

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.

Emergency Response [68.95(a)(1)(i), (a)(2)]

\$750

The owner or operator failed to include in the emergency response plan procedures for informing the public and local emergency response agencies about accidental releases.

Facility addressed this post inspection.

The owner or operator failed to contain in the emergency response plan procedures for the use of emergency response equipment and for its inspection, testing and maintenance.

Facility addressed this post inspection.

Total

\$5,250

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for >100 employees and the row for >10 times the threshold quantity amount gives a multiplier factor of 1. Therefore, the multiplier for JBS Marshalltown Pork Facility = 1

***No adjusted penalty since multiplier is 1*

This section must be also be completed and signed by JBS Marshalltown Pork Facility:

The approximate cost to correct the above items: \$ 8,000⁻

Compliance staff name: LINDA J. MCDANIEL

Signed: Linda J. McDaniel Date: 04/17/14

IN THE MATTER OF JBS Marshalltown Pork Facility, Respondent
Docket No. CAA-07-2014-0009

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 emailed to Attorney for Complainant:

nazar.kristen@epa.gov

Copy by First Class Mail to Respondent:

Linda J. McDaniel
Corporate PSM Director
JBS Marshalltown Pork Facility
402 North 10th Avenue
Marshalltown, Iowa 50158

Dated: 4/29/14



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7