



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 28 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark Bromely
Tyson Chicken, Inc.
14660 U.S. Highway 41 South
Robards, Kentucky 42452

Re: Tyson Chicken, Inc.
Expedited Settlement Agreement
CAA-04-2015-8005(b)

Dear Mr. Bromely:

Enclosed please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2015-8005(b)) involving Tyson Chicken, Inc. The ESA was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing. If you have any questions, please call Mr. Victor Weeks at (404) 562-9189.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Bookman".

Robert W. Bookman
Chief
Chemical Management and Emergency
Planning Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2015-8005(b)

This ESA is issued to: Tyson Chicken, Inc.
14660 U.S. Highway 41 South
Robards, Kentucky 42452

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL
2016 JAN 28 AM 7:21
HEARING CLERK

for violating 40 CFR § 68.15(c), 40 CFR § 68.77(b), and Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by Tyson Chicken, Inc. (Respondent), pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 CFR § 22.13(b).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 14660 U.S. Highway 41 South, Robards, Kentucky 42452, on July 31, 2013, EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Provisions, when at the time of inspection, Respondent did not provide evidence that:

It provided 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 as required by 40 CFR § 68.71(b);

It performed a pre-startup safety review, after the facility installed a sixth IQF Freezer in October 2012, to confirm that construction and equipment was in accordance with design specifications as required by 40 CFR § 68.77(b)(1);

It performed a pre-startup safety review, after the facility installed a sixth IQF Freezer in October 2012, to confirm that safety, operating, maintenance, and emergency procedures were in place and were adequate as required by 40 CFR § 68.77(b)(2);

It performed a pre-startup safety review, after the facility installed a sixth IQF Freezer in October 2012, to confirm that training of each employee involved in operating the process had been completed as required by 40 CFR § 68.77(b)(4).

SETTLEMENT

In consideration of Respondent's size, 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 cited above, for the total penalty amount of **\$2,400**.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits the jurisdictional allegations contained herein, neither admits nor denies the specific factual allegations contained herein, 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 Act, 42 U.S.C § 7413(d)(2)(A), and to appeal this ESA or otherwise contest the allegations contained in this ESA; and each party to this action shall bear its own costs and fees, if any.

Respondent certifies that it has corrected the alleged violations listed in this ESA. Respondent may be subject to civil and criminal penalties for making a false submission to the United States Government.

Within fifteen (15) days of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of **\$2,400**. Respondent's payment shall be made by sending a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$2,400**, in payment of the full penalty amount to one of the following addresses:

For payment sent via U.S. Postal Service
U.S. Environmental Protection Agency
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000; or

For payment sent via overnight mail service (FedEx, UPS)
U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(314) 418-1818

The Respondent's name and the Docket Number of this ESA must be included on the check. The Docket Number is located at the top left corner of the first page of this ESA.

At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this ESA to:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Saundi Wilson
U. S. EPA, Region 4
Office of Regional Counsel
61 Forsyth Street S.W.
Atlanta, Georgia 30303, and

Karl Wilson
U. S. EPA, Region 4
Chemical Management and Emergency Planning Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

The penalty specified in this ESA shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or Federal taxes.

Upon Respondent's payment of the penalty, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in this ESA. EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Verne H. George
U.S. EPA, Region 4
Chemical Management and Enforcement Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303
(404) 562-8988.

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:



Date: 7/31/15

Name (print): William Tyler DUTTON

Title (print): SENIOR DIRECTOR of COMPLIANCE ASSURANCE
Tyson Chicken, Inc.

FOR COMPLAINANT:

Carol G. Kemper for
Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

Date: 1/22/16

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

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

Date: January 26, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement, in the matter of Tyson Chicken, Inc., CAA-04-2015-8005(b), on the parties listed below in the manner indicated:

Robert W. Bookman, Sr.
U. S. EPA, Region 4
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)

Michiko Kono
U. S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, GA 30303

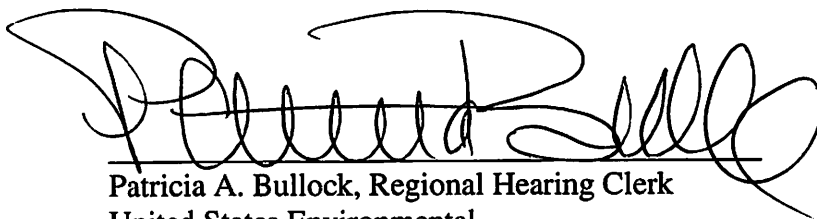
(Via EPA's internal mail)

Mark Bromely
Tyson Chicken, Inc.
14660 U.S. Highway 41 South
Robards, KY 42452

(Via Certified Mail -
Return Receipt Requested)

Date:

1-28-16



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511