



REGION 7

LENEXA, KS 66219

FILED

April 14, 2025

6:33AM

U.S. EPA REGION 7
HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2025-0011

This ESA is issued to: Backes and Toelke Agri-Products, Inc. dba Marthasville Ag Center, Inc.

At: 15998 State Highway 47

Marthasville, Missouri 63357

for violating of Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA or Complainant) and Backes and Toelke Agri-Products, Inc. dba Marthasville Ag Center, Inc. (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 and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

Complainant, as duly delegated by the Administrator of the EPA, is the Director of the Region 7 Enforcement and Compliance Assurance Division. Respondent is Backes and Toelke Agri-Products, Inc., doing business as Marthasville Ag Center, Inc., a Missouri Company, with this facility located at 15998 State Highway 47, Marthasville, Missouri 63357.

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 policies entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68," dated January 5, 2004, and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," dated December 20, 2013, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On or about May 15, 2024, a representative of the EPA conducted a compliance inspection of Respondent's facility located at 15998 State Highway 47, Marthasville, Missouri to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated pursuant to Section 112(r) of the CAA and found at 40 C.F.R. Part 68. The EPA found that Respondent violated the CAPP regulations as noted on the enclosed CAPP Inspection 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 the ESA to settle the violations, described in the enclosed CAPP Inspection Findings, for the total penalty amount of **\$3,200**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, (a) admits that it is subject to the CAA and its implementing regulations; (b) admits that the EPA has jurisdiction over Respondent and Respondent's conduct; (c) neither admits nor denies the specific factual allegations contained herein and in the CAPP Inspection Findings; (d) consents to the assessment of the penalty as stated above; and (e) waives any and all remedies, claims for relief and other available rights to judicial or administrative review Respondent may have with respect to any issue of fact or law set forth in this Agreement and Final Order. By signing this ESA, respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order ratifying the 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 Respondent has corrected the violations listed in the enclosed CAPP Information Request Findings and has paid the penalty of \$3,200.

Penalty payment shall identify Respondent by name and docket number and shall be made by electronic payment method described at <http://www.epa.gov/financial/makepayment> or by alternate method of certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197-9000.

The electronically signed ESA, a scanned copy of the completed CAPP Inspection Findings, and a copy of the information confirming payment shall be sent via email to Tim Evans at evans.timothy@epa.gov. In lieu of email, the signed original ESA, a copy of the completed CAPP Inspection Findings, and a copy of the information confirming payment may alternatively be sent by certified mail to:

Tim Evans
Chemical Accident Prevention Section | Air
Branch Enforcement and Compliance Assurance
Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Copies of these items shall also be sent via email to:

Milady Peters
Office of Regional Counsel
peters.milady@epa.gov, and

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov.

Full payment of the ESA penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAPP Inspection Findings. The EPA reserves the right to take any enforcement action for any other violations of the CAA or any other statute.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

Respondent consents to receiving the filed ESA electronically at the following email address: *Toelke@outlook.com*. Respondent understands that the ESA will become publicly available upon ratification and filing.

FOR RESPONDENT:

Backes and Toelke Agri-Products, Inc. dba Marthasville Ag Center, Inc.

Signature: Kelly Toelke Date April 10, 2025
Name (print): Kelly Toelke
Email Address: toelke@outlook.com
Title (print): President, Owner

FOR COMPLAINANT:
U.S. Environmental Protection Agency

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Erin Weekley
Office of Regional Counsel

Date

I hereby ratify the ESA and incorporate it herein by reference.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

(To be completed by EPA)

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day in the following manner to the addressees:

Copy via e-mail to Complainant:

Erin Weekley, weekley.erin@epa.gov
Tim Evans, evans.timothy@epa.gov
Milady Peters, peters.milady@epa.gov

Copy via mail and e-mail to Respondent(s):

Kelly Toelke
Owner
Backes and Toelke Agri-Products, Inc. dba Marthasville Ag Center, Inc.
15998 State Highway 47
Marthasville, Missouri 63357
Toelke@outlook.com

Dated this _____ day of _____, 2025.

Signed