



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 20 2012

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Daniel De Jonge
Facility Manager
Hudsonville Ice Cream
345 East 48th Street, Suite 200
Holland, Michigan 49423

RE: Complaint and Expedited Settlement Agreement

ESA Docket No. RMP-12-ESA-004


Docket No. CAA-05-2012-0018 BD# 2751203A020.22.

Dear Mr. De Jonge:

Enclosed please find a copy of the fully executed Risk Management Program Expedited Settlement Agreement (ESA). The ESA is binding on the U.S. Environmental Protection Agency and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other questions about the program. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure

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APR 10 2012



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CAA-05-2012-0018

DOCKET NO: RMP-12-ESA-004

This ESA is issued to: Hudsonville Ice Cream
at: 345 East 48th Street, Suite 200, Holland, Michigan 49423
for violations of Section 112(r)(7) of the Clean Air Act.

2751203A020

BD#

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and Hudsonville Ice Cream ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On July 6, 2011 EPA sent a Request for Information Pursuant to Section 114(a) of the Clean Air Act to Hudsonville Creamery & Ice Cream, LLC, Holland, Michigan 49423 ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Respondent provided a response dated October 5, 2011 to the Request. The Respondent filed a Risk Management Plan on September 14, 2004. A five year update was due by September 14, 2009. Based on the Respondents response, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.19(b)(91) Respondent failed to revise and update the Risk Management Plan within five years of its initial submission or most recent update required.

SETTLEMENT

In consideration of the size of the Respondent, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$1,200.00**

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1,200.00** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-12-ESA-004.

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

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA, and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (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 in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

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

FOR RESPONDENT:

Signature: Daniel De Jonge
Name (print): Daniel De Jonge
Title (print): Facility Mgr
Hudsonville Ice Cream,
Docket # RMP-12-ESA-004

Date: 3-15-12

FOR COMPLAINANT:

Richard C. Karl
Richard C. Karl, Director
Superfund Division

Date: 4-3-12

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Date: 4-6-12

Susan Hedman
Regional Administrator

THIS DOCUMENT HAS A TRUE WATERMARK WHICH IS VISIBLE ON FACE AND BACK. THE FRONT OF THIS DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE. ABSENCE OF THESE FEATURES WILL INDICATE A COPY.

74-1390/724

070426

THE BANK OF **holland**

150 central avenue
holland, michigan 49423

date 3-16-12

pay to the order of Treasurer, United States of America

\$ 1,200.00

\$1,200.00

dollars

official check

remitter: Hudsonville Ice Cream

Clare L. Rotman

Docket # RMP-TSA-004

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1000062⑈

Docket# CAA-05-2012-0018

BD# 2751203A020

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