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

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2019-0047

This ESA is issued to: Tyson Prepared Foods, Inc. – South Hutchinson

At: 9 North Washington Street, South Hutchinson, Kansas 67505

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

The United States Environmental Protection Agency, Region 7 (EPA) and Tyson Prepared Foods, Inc. – South Hutchinson (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).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Enforcement and Compliance Assurance Division. Respondent is Tyson Prepared Foods, Inc. – South Hutchinson, 9 North Washington Street, South Hutchinson, Kansas 67505.

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 May 15 and 16, 2018, an authorized representative of the EPA conducted a compliance inspection of Respondent's facility located at 9 North Washington Street, South Hutchinson, Kansas, to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Chemical Accident Prevention Provisions Inspection Findings (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 into this ESA in order to settle the violations, described in the enclosed CAPP Inspection Findings, for the total penalty amount of \$5,100.

This settlement is subject to the following terms and conditions:

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 CAPP Inspection 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 Respondent has corrected the violations listed in the enclosed CAPP Inspection Findings and has paid the penalty of \$5,100. Penalty payment shall identify Respondent by name and docket number and shall be by 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 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

This original ESA, a copy of the completed CAPP Inspection Findings, and a copy of the check or other information confirming payment must be sent by certified mail to:

Elizabeth Koesterer
Environmental & Compliance Assurance
Division- Chemical Branch
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

A copy of the check or other information confirming payment must also be sent to:

Lisa Haugen
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

Full payment of the ESA penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAPP 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 or other information confirming payment is not returned to the EPA Region 7 office at the above address in correct form by 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 CAPP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Kaelen Randall
Sign

Date: 5-10-19

Name (print): *Kaelen Randall*

Title (print): *Plant Manager*

Tyson Prepared Foods, Inc. – South Hutchinson

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer


Date: June 17, 2019

FOR COMPLAINANT:



DeAndre Singletary
Acting Director
Enforcement and Compliance Assurance Division
EPA Region 7

Date: 6-11-19



Christopher Muehlberger, (Acting
Chemical Management Branch Chief
Office of Regional Counsel
EPA Region 7

Date: 6.4.19

IN THE MATTER OF
Tyson Prepared Foods, Inc. – South Hutchinson
Docket No. CAA-07-2019-0047

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:

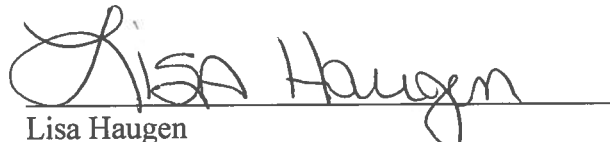
Copy emailed to Attorney for Complainant:

Muehlberger.christopher@epa.gov

Copy by First Class Mail to representative for the Respondent:

Mr. Kaelen Randall
Plant Manager
Tyson Prepared Foods, Inc.
9 North Washington Street
South Hutchinson, KS 67505

Dated: June 18, 2019



Lisa Haugen
Hearing Clerk, Region 7