



Region 7

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Ag Processing, Inc., Mason City, IA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

In accordance with Section 311(b)(6)(C) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321 (b)(6)(C) and 40 C.F.R. Part 22 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"), the U.S. Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against Ag Processing, Inc., a cooperative, ("Respondent") for violations of the CWA. This penalty assessment is set forth in a Consent Agreement and Final Order ("Consent Agreement") negotiated between EPA and Respondent identified by Docket No. CWA-07-2011-0102.

The Consent Agreement alleges that Respondent failed to comply with the requirements for "Facility Response Plan" or "FRP," set forth at Section 311(j)(5) of the CWA and Subparts A and D of 40 C.F.R. Part 112 at its Mason City, Iowa, facility. The FRP violations cited in the Consent Agreement stem from an EPA inspection of the Respondent's Mason City, Iowa, facility in January 2009. The AGP Mason City facility is a soybean oil manufacturing facility which has documented storage capacity at the facility of over 5,600,000 million gallons of soy oil. The soy oil is produced by the use of hexane to remove oil from soy beans. The AGP facility is located within 540 feet of Chelsea Creek and there are storm drains, tiles and ditches that drain to Chelsea Creek from the AGP facility. Chelsea Creek contains several species of fish and macro invertebrates and flows through nearby parks adjacent to Pierce Pond. The creek then flows into Big Blue Lake, and enters Willow Creek, approximately three miles from the AGP plant. The Mason City facility has also experienced two spills that resulted in oil entering the Chelsea Creek via storm drains from the AGP facility. During the EPA's January 2009 inspection, AGP's failure to prepare an FRP was discovered. A copy of the SPCC inspection report was provided to the facility which cited AGP's failure to have the required FRP plan.

The Consent Agreement requires AGP to certify that it has taken steps to address the cited violations and that the company is now in compliance with the CWA and the FRP regulations, by incorporating by reference a companion administrative compliance Order (Order), (Docket No. CWA-07-2011-0101). The Order requires AGP to submit an FRP for its Mason City facility, and to conduct a revised evaluation of whether an FRP is required for its Emmetsburg, Iowa, facility.

Under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), EPA is authorized to issue orders assessing civil penalties for violations of the statute. The penalty proposed by the Consent Agreement equals \$96,588. Class II proceedings are conducted under EPA's

Consolidated Rules, 40 C.F.R. Part 22. This action is being simultaneously commenced and concluded in a Consent Agreement and Final Order 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) and 22.18(b)(2).

EPA will receive written comments on the proposed Administrative Penalty Assessment for a period of thirty (30) days from the date of publication of this notice. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. Persons wishing to receive a copy of EPA's Consolidated Rules, review the CAFO, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101, 913-551-7567. Please reference Docket No. CWA-07-2011-0102. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to forty (40) days from the date of this notice.

11-07-2011
Date

/s/ John Smith for
Becky Weber
Director, Air and Waste Management Division
U.S. Environmental Protection Agency
Region 7