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

April 16, 2020

SE-5J

Dan DeJonge
Facility Manager
Hudsonville Ice Cream
345 E. 48th Street, Suite 200
Holland, Michigan 49423
dan@hudsonvilleicecream.com

RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-20-ESA-009
Docket No. CAA-05-2020-0013

Dear Mr. DeJonge:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA 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 question about the program. Thank you for your assistance in resolving this matter.

Sincerely,

s//Michael E. Hans

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

Enclosure

Docket #: CAA-05-2020-0013 Filed: April 16, 2020 U.S. EPA, Region 5 Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590
CAA-05-2020-0013

DOCKET NO: RMP-20-ESA-009
This ESA is issued to: Hudsonville Ice Cream
at: 345 E. 48th St Suite 200, Holland, Michigan 49423
for violations of Section 112(r)(7) of the Clean Air Act.

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 Enforcement & Compliance Assurance 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. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) to the Regional Judicial Officer, Office of Regional Counsel, EPA Region 5.

ALLEGED VIOLATIONS

On April 17, 2019, an authorized EPA representative conducted a compliance inspection of the Respondent's facility to determine its compliance with the Risk Management Program ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the April 17, 2019 inspection, EPA has determined that Respondent violated the following regulations:

1. **40 C.F.R. § 68.15(c):** Respondent failed to document names or positions of persons responsible for implementing individual requirements.
2. **40 C.F.R. § 68.36(a):** Respondent failed to review and update the offsite consequence analyses at least once every five years.
3. **40 C.F.R. § 68.39(a):** Respondent failed to maintain records on the offsite consequence

analyses that includes for worst-case scenarios, a description of the vessel and substance selected as worst case, assumptions and parameters used and the rationale for selection.

4. **40 C.F.R. § 68.39(b):** Respondent failed to maintain records on the offsite consequence analyses that includes for alternative release scenarios, a description of the scenario identified, assumptions and parameters used and the rationale for the selection of specific scenarios.
5. **40 C.F.R. § 68.39(e):** Respondent failed to maintain records on the offsite consequence analysis that includes data used to estimate population and environmental receptors potentially affected.
6. **40 C.F.R. § 68.67(e):** Respondent failed to establish a system to promptly address the process hazard analysis team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible, develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.
7. **40 C.F.R. § 68.67(f):** Respondent failed to update and revalidate a process hazard analysis to assure that the process hazard analysis is consistent with the current process at least every five years after the completion of the initial process hazard analysis.
8. **40 C.F.R. § 68.69(a):** Respondent failed to implement written operating procedures that provide clear instruction for safely conducting activities involved in each covered process consistent with the process safety information.
9. **40 C.F.R. § 68.69(a)(1)(iv)** Respondent failed to develop written operating procedures that address emergency shutdown including the conditions under which emergency shutdown is required and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.
10. **40 C.F.R. § 68.69(c):** Respondent failed to certify annually that operating procedures are current and accurate.
11. **40 C.F.R. § 68.71(a)(1):** Respondent failed to provide each employee presently involved in operating a process and each employee before being involved in operating a newly assigned process training in an overview of the process and in the operating procedures.
12. **40 C.F.R. § 68.73(b):** Respondent failed to implement written procedures to maintain the ongoing integrity of process equipment.
13. **40 C.F.R. § 68.73(d)(3):** Respondent failed to perform inspections and tests on process equipment at a frequency that is consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.
14. **40 C.F.R. § 68.73(e):** Respondent failed to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation.
15. **40 C.F.R. § 68.79(a):** Respondent failed certify that they have evaluated compliance with the Program 3 Prevention Program at least every three years to verify that procedures and practices developed are adequate and are being followed.

16. **40 C.F.R. § 68.83(b):** Respondent failed to consult with employees on the conduct and development of process hazards analyses and on the development of the other elements of process safety managment.
17. **40 C.F.R. § 68.87(b)(1)** Respondent failed to obtain and evaluate information regarding a contract owner or operator's safety performance and programs.
18. **40 C.F.R. § 68.160(b)(7):** Respondent failed to complete a single registration form and include in the RMP the maximum quantity of each regulated substance or mixture in the process.

SETTLEMENT

In consideration of Respondent's size of business, 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 **$7,880.**

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 **$7,880** 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-20-ESA-009.)

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 (SE-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 thereunder, 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.

Expedited Settlement Agreement
In the Matter of Hudsonville Ice Cream, Holland, Michigan
Docket No. RMP-20-ESA-009

FOR RESPONDENT:

Signature: Dan De Jonge Date: 3-13-20
Name (print): Dan De Jonge
Title (print): Facility Mgr.
Respondent

FOR COMPLAINANT:

Sara Brenema Date: 1-29-20
For Michael D. Harris,
Director
Enforcement & Compliance Assurance Division

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.

ANN COYLE Digitally signed by ANN COYLE Date: 2020.04.10 11:18:23 -05'00'

Date: 4/10/2020

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Expedited Settlement Agreement
In the matter of: Hudsonville Ice Cream, Holland, Michigan
Docket Number: CAA-05-2020-0013

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, docket number CAA-05-2020-0013 which was filed on April 16, 2020 in the following manner to the following addresses:

Copy by E-mail to Respondent: Dan DeJonge
dan@hudsonvilleicecream.com

Copy by E-mail to RMP Contact: Monika Chrzaszcz
Chrzaszcz.monika@epa.gov

Copy by E-mail to Attorney for Complainant: William Wagner
Wagner.william@epa.gov

Copy by e-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: April 16, 2020

LWhitehead
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

FORM 129251-1014

07000857

PNC BANK

PNC Bank, National Association
Michigan

No. 2059297

6-12/410

CASHIER'S CHECK

DATE MARCH 11, 2020

PAY TO THE ORDER OF TREASURER, UNITED STATES OF AMERICA $ 7,680.00

SEVEN THOUSAND EIGHT HUNDRED EIGHTY AND 00 / 100 DOLLARS

Security features included. Details on back.

HUDSONVILLE CREAMERY AND ICE CREAM

REMITTER

RMP-20-ESA-009

PNC Bank, National Association

OFFICIAL SIGNATURE

MP

MIX Paper from responsible sources FSC® C101537

⑈02059297⑈ ⑆041000124⑆ 4011048446⑈

COPY