

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT AGREEMENT

HEARING CLERK

2012 DEC -4 PM 4: 28

RECEIVED
EPA REGION IV

DOCKET NO: CAA-04-2012-8019(b)

This ESA is issued to: Wood Fruitticher Food Service
2900 Alton Road
Birmingham, Alabama 35261

for violating 40 CFR § 68.73 and Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by Wood Fruitticher Food Service (Respondent), pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 CFR § 22.13(b).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 2900 Alton Road, Birmingham, Alabama 35261, on May 2, 2012, EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Program, when at the time of inspection, Respondent did not provide evidence that:

It established and implemented written procedures to maintain the on-going integrity of the process equipment as required by 40 CFR § 68.73(b); and,

It corrected deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation as required by 40 CFR § 68.73(e).

SETTLEMENT

In consideration of Respondent's size, 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 the ESA in order to settle the violation cited above, for the total penalty amount of **\$1,440**.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits the jurisdictional allegations contained herein, neither admits nor denies the specific factual allegations contained herein, 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 Act, 42 U.S.C § 7413(d)(2)(A), and to contest the allegations contained in this ESA; and each

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

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the alleged violation listed in this ESA. Respondent shall pay a civil penalty of **\$1,440**. **Please note that payment should not be made until after Respondent receives a copy of the fully executed ESA.** Within fifteen (15) days of receiving a copy of the fully executed ESA, the Respondent shall send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1,440**, in payment of the full penalty amount to one of the following addresses:

For payment sent via U.S. Postal Service

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

For payment sent via overnight mail service (FedEx, UPS)

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The Respondent's name and the Docket Number of this ESA must be included on the check. The Docket Number is located at the top left corner of the first page of this ESA.

At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this ESA to:

Saundi Wilson
U. S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth Street S.W.
Atlanta, Georgia 30303, and

Deanne Grant
U. S. EPA, Region 4
EPCRA Enforcement Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

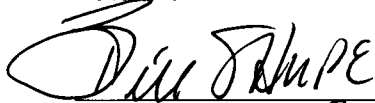
Upon Respondent's payment of the penalty, EPA will take no further civil action against Respondent for the alleged violation of the Act referenced in this ESA. EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Caron B. Falconer
U.S. EPA, Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303
(404) 562-8451

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

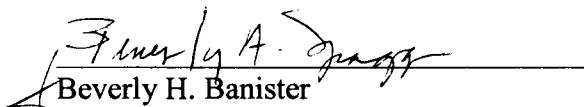
FOR RESPONDENT:



Date: 7.30.12

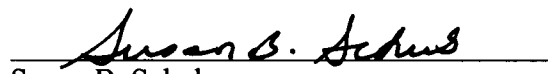
Name (print): BILL SHUPE
Title (print): V.P. OPERATIONS
Wood Fruitticher Food Service

FOR COMPLAINANT:


Beverly H. Banister
Director
Air, Pesticides & Toxics
Management Division

Date: 11/20/2012

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


Susan B. Schub
Regional Judicial Officer

Date: Dec. 4, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement, in the matter of Wood Fruitticher Food Service, CAA-04-2012-8019(b), on the parties listed below in the manner indicated:

Caron B. Falconer
U. S. EPA, Region 4
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)


Ellen Rouch
U. S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)

Bill Shupe
Wood Fruitticher Food Service
2900 Alton Road
Birmingham, AL 35261

(Via Certified Mail -
Return Receipt Requested)

Date: 12-4-12


Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511