



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

RECEIVED

JAN 30 2008

Environmental  
Cleanup Office

## EXPEDITED SETTLEMENT AGREEMENT

**DOCKET NO:** CAA-10-2008-0049  
**This ESA is issued to:** McCain Foods USA, Inc.  
218 West Highway 30, P.O. Box 10  
Burley, Idaho 83318

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On August 31, 2005, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

### ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings, Alleged Violations and Proposed Penalty Summary (Summary) and the Risk Management Plan Inspection Findings, Alleged Violations and Proposed Penalty Sheet (Sheet), which are 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 the ESA in order to settle the violations, described in the enclosed Summary and Sheet for the total penalty amount of **\$3,045**

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 Summary and Sheet, and consents to the assessment of the penalty as stated above.

RECEIVED  
08 FEB -8 AM 8:45  
HEARINGS CLERK  
EPA--REGION 10

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 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 Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$ 3,045 in payment of the full penalty amount to the following address:

Mellon Client Services Center  
EPA Region 10  
500 Ross Street  
P.O. Box 360903  
Pittsburgh, PA 15251-6903

The docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

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

Office of Environmental Cleanup  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, ECL-116  
Seattle, Washington 98101  
Attn: Kelly Huynh, 112(r) Enforcement Coordinator

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA at the above address 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 Summary and Sheets

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Signature: Steve Lindberg  
 Name (print): Steve Lindberg  
 Title (print): Engineering Manager  
 Cost to correct violation(s): \$3,045

Date: 01-28-08

FOR COMPLAINANT:

Michael A. Bussell  
 Michael A. Bussell, Director  
 Office of Compliance and Enforcement  
 EPA Region 10

Date: 2-6-08

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

Richard G. McAllister  
 Richard G. McAllister  
 Regional Judicial Officer  
 EPA Region 10

Date: 2/7/08

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: McCain Foods USA, Inc., DOCKET NO.: CAA-10-2008-0049** was filed with the Regional Hearing Clerk on February 8, 2008.

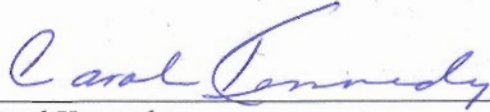
On February 8, 2008 the undersigned certifies that a true and correct copy of the document was delivered to:

Deborah Hilsman, Esquire  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on February 8, 2008 to:

McCain Foods USA, Inc.  
Steve Lundberg, Engineering Manager  
218 West Highway 30  
P.O. Box 10  
Burley, Idaho 83318

DATED this 8<sup>th</sup> day of February 2008.

  
\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10