

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT AGREEMENT

FILED

May 23, 2024

12:51 pm

U.S. EPA REGION 4
HEARING CLERK

DOCKET NO: CAA-04-2024-0004(b)

**This ESA is issued to: Horizon Construction Company
415 Winkler Drive
Alpharetta, Georgia 30004**

**for violating monitoring, reporting, and/or recordkeeping (MRR) requirements in
40 C.F.R. Part 61, Subpart M (National Emission Standard for Asbestos) and Section 112
of the Clean Air Act.**

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 4, Director of the Enforcement and Compliance Assurance Division (Complainant), and by Horizon Construction Company (Respondent) pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

ALLEGED VIOLATION

Based on information acquired during a November 2, 2023, EPA inspection and from the Respondent regarding the renovation activity at Chick-fil-A located at 1459 Riverstone Parkway in Canton, Georgia 30114 (the Facility), the EPA alleges that Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. Part 61, Subpart M. Specifically, the EPA alleges the Respondent failed to conduct a thorough inspection for asbestos-containing materials prior to beginning renovation activity, as required by 40 C.F.R. § 61.145(a), at the Facility. Renovation activities commenced at the Facility on or around October 5, 2023.

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith efforts 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 **\$5,425**.

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 appeal this ESA and Final Order or otherwise 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 is currently in compliance with the National Emission Standard for Asbestos regulations promulgated at 40 C.F.R. Part 61, Subpart M. Within fifteen (15) days of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of **\$5,425**. Payment shall be made by cashier's check, certified check, or electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express).

If paying by check, the check shall be payable to: Treasurer, United States of America, and the **Respondent's name and Docket Number of this ESA must be included on the face of the check.**

If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, MO 63197-9000

If Respondent sends payment by non-standard mail delivery (e.g. FedEx, DHL, UPS, USPS certified, registered, etc.), the payment shall be sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: Environmental Protection Agency

If paying by ACH, Respondent shall remit payment to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737

REX (Remittance Express): 1-866-234-5681

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

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

Pamela Storm
Case Development Officer
Storm.Pamela@epa.gov

The penalty specified in this ESA shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of State or Federal taxes.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for Federal civil penalties for the violation alleged in this ESA. The EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

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

In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

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FOR RESPONDENT:

Ann Travis

Date: 5/8/24

Name (print): Ann Travis

Title (print): CFO

FOR COMPLAINANT:

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

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

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order in the Matter of Horizon Construction Company, Docket No. CAA-04-2024-0004(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Dave Roberts
Horizon Construction Company
daroberts@horizonc.com
415 Winkler Drive
Alpharetta, Georgia 30004
205-240-4406

To EPA: Pamela Storm, Case Development Officer
Storm.Pamela@epa.gov
404-562-9197

Marirose Pratt, Associate Regional Counsel
Pratt.Marirose@epa.gov
404-562-9023

Shannon L. Richardson, Regional
Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov