



REGION 6  
DALLAS, TX 75270

FILED

25 JUN 24 PM 01:34

REGIONAL HEARING CLERK  
EPA REGION 6

6/5/2024

**EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO: CAA 06-2024-3353**

**This ESA is issued to: McLane Foodservice**

**At: 330 Greens Landing Drive, Houston, TX 77308**

**for violating Section 112(r)(7) of the Clean Air Act**

The United States Environmental Protection Agency (EPA), through its delegated official, the Director of the Enforcement and Compliance Assurance Division, and McLane Foodservice (Respondent) have agreed to a settlement of this action before filing a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in the EPA's policies<sup>1</sup> are appropriate for administrative penalty action.

**ALLEGED VIOLATION**

On September 6, 2022, EPA Risk Management Program Reporting Center sent a letter to Respondent, notifying Respondent of its failure to update the Risk Management Plan on file with the EPA for its facility located in Houston, Texas. Facilities subject to the Risk Management Program (RMP) regulations at 40 C.F.R. Part 68 are required to submit an updated Risk Management Plan at least once every five years. The EPA's review indicates that the update for the facility was not submitted by the required due date of August 2, 2022. The EPA has found that Respondent violated the RMP regulation and Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), as follows:

- 1) **40 C.F.R. § 68.190(b)(1) Updates** - *The owner or operator shall review and update the RMP as specified in paragraph (b) of this section and submit it in the method and format to the central point specified by EPA as of the date of submission. (b) The owner or operator of a stationary source shall revise and update the RMP submitted under 40 C.F.R. § 68.150 as follows (1) At least once every five years from the date of its initial submission or most recent update required by paragraphs (b)(2) through (b)(7) of this section, whichever is later.*

**SETTLEMENT**

---

<sup>1</sup> "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68" (2004); and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions" (2013)

In consideration of the factors set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the criteria set forth in the EPA's policies<sup>1</sup>, and upon consideration of the entire record, EPA and Respondent enter into this ESA to settle the violation, described above, for the total penalty amount of **\$2,000.00**.

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 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 CAA, 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 statement to the United States Government, that Respondent has corrected the violation listed above and has paid the full penalty of **\$2,000.00** by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P. O. Box 979078  
St. Louis, MO 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

The Docket Number of this ESA is **CAA-06-2024-3353** and must be included on the payment. **The signed ESA and a copy of the payment must be sent by email to: [torres.julia@epa.gov](mailto:torres.julia@epa.gov).**

Full payment of the ESA penalty shall only resolve Respondent's civil liability for the violation alleged above. The EPA does not waive any other enforcement action by EPA for any other past, present, or future violations under the CAA or any other statute.

If the signed ESA with a copy of the payment is not returned to the EPA Region 6 at the above e-mail address in correct form by Respondent within 30 days of the date of the receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violation identified in this ESA.

This ESA is binding on the EPA and Respondent and is effective upon filing with the Regional Hearing Clerk.

The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this ESA, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA: [torres.julia@epa.gov](mailto:torres.julia@epa.gov)

To Respondent: [keith.kirk@mclanefs.com](mailto:keith.kirk@mclanefs.com)

**SIGNATURE BY RESPONDENT:**

Signature: 

Date: 6-14-24

Name (print): Chris Simonson

Title (print) G.M.

Cost of Corrective Actions: \_\_\_\_\_

Respondent's Brief Description of Complying Action: \_\_\_\_\_

---

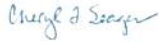
---

---

---

If you need additional space or would like to provide additional supporting documentation, please attach to this document.

**SIGNATURE BY EPA:**



Digitally signed by  
CHERYL SEAGER  
Date: 2024.06.24  
09:52:30 -05'00'

---

Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U.S. EPA, Region 6

It is so ORDERED. This Order shall become effective upon filing of the fully executed ESA with the Regional Hearing Clerk.

**THOMAS  
RUCKI**

Digitally signed by  
THOMAS RUCKI  
Date: 2024.06.25  
10:21:02 -04'00'

---

Thomas Rucki  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement was filed with me, the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to EPA:

[torres.julia@epa.gov](mailto:torres.julia@epa.gov)

Copy via Email to Respondent:

[keith.kirk@mclanefs.com](mailto:keith.kirk@mclanefs.com)

Keith Kirk  
Safety QA, and Special Projects Mgr.  
McLane Foodservice  
2805 Midway Road  
Carrollton, TX 75006

Copy via Email to Regional Hearing Clerk:

[vaughn.loreana@epa.gov](mailto:vaughn.loreana@epa.gov)

A handwritten signature in blue ink, appearing to read "Lorena Vaughn", is written over a horizontal line. The signature is fluid and cursive.

Regional Hearing Clerk  
U.S. EPA, Region 6