



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912

### EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-01-2021-0036

**This ESA is issued to:** Ben and Jerry's Homemade, Inc., 1281 Waterbury-Stowe Road, Waterbury, VT 05676 **for violating Section 112(r)(7) of the Clean Air Act.**

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This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region 1, by its duly delegated official, Karen McGuire, Director, Enforcement and Compliance Assurance Division, and by Respondent Ben and Jerry's Homemade, Inc. ("Respondent"), pursuant to Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. §§ 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). EPA and the U.S. Department of Justice have jointly determined that this action is an appropriate administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

#### ALLEGED VIOLATIONS

On October 15, 2019, authorized EPA representatives conducted a compliance inspection of the Ben and Jerry's Homemade, Inc. facility at 1281 Waterbury-Stowe Road in Waterbury, Vermont ("Facility") to determine its compliance with the Risk Management Program ("RMP") regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA found that Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the regulations as noted on the attached "Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Form" ("Form"), which is hereby incorporated by reference.

#### SETTLEMENT

In consideration of Respondent's size of business, compliance history, 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 attached Form, for the total penalty amount of \$15,000.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that they may have regarding jurisdiction, neither admit nor deny the specific factual allegations contained herein and in the Form, and consent 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. 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 attached Form. Respondent agrees to submit payment of the \$15,000 penalty within 30 days of receiving a fully

executed copy of this ESA. Respondent may pay the penalty by cashier's check, certified check, or wire transfer.

If payment is made by check, make payable to "Treasurer, United States of America," include Docket Number CAA-01-2021-0036, and send to:

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

If payment is made by wire transfer, include the Docket Number CAA-01-2021-0036 in Field Tag 6000 and "D 68010727 Environmental Protection Agency" in Field Tag 4200. The wire transfer account is:

Federal Reserve Bank of New York  
33 Liberty Street  
New York NY 10045  
ABA: 021030004  
Account: 68010727  
SWIFT address: FRNYUS33

Respondent must also email a copy of the check or wire transfer receipt to:

Tyler Diercks, EPA Inspector  
diercks.tyler@epa.gov

and

Wanda I. Santiago, Regional Hearing Clerk  
santiago.wanda@epa.gov

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above and in the Form. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed ESA is not returned to the EPA Region 1 office at the address above by Respondent within 30 days of the date of receipt, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the cited violations. If you do not sign and return the ESA and pay the penalty on time, EPA may pursue more formal enforcement measures, including seeking civil penalties of up to \$48,192 per day for each violation. This ESA is binding on the parties signing below.

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

The Parties each consent to the use of digital signatures on this document, and Respondent further consents to receipt of service of the ESA, once filed, by electronic mail.

FOR RESPONDENT:

\_\_\_\_\_ Date: December 16, 2020  
Name (print): Georgia Szewczak  
Title (print): Head of Supply Chain, Ben & Jerry's

FOR COMPLAINANT:

\_\_\_\_\_ Date: \_\_\_\_\_  
Karen McGuire, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 1

I hereby ratify the ESA resolving *In the Matter of Ben and Jerry's Homemade, Inc.* No. CAA-01-2021-0036 and incorporate it herein by reference. It is so ORDERED.

\_\_\_\_\_  
Sharon Wells  
Acting Regional Judicial Officer  
U.S. EPA Region I

Date: \_\_\_\_\_