



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-6960

JAN 19 2012

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Gary Schatz  
Safety Manager  
Smithfield Packaging Company, Inc.  
820 South 23<sup>rd</sup> Street  
Middlesboro, Kentucky 40965

Re: Expedited Settlement Agreement  
CAA-04-2012-8007(b)

Dear Mr. Schatz:

Enclosed please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2012-8007(b)) involving Smithfield Packaging Company, Inc. The ESA was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on today's date.

As required by the ESA, within fifteen days of receipt of this letter, payment to the Treasurer, United States of America in the amount of \$3,000 should be submitted as follows:

For payment sent via electronic transfer

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency";

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  
Contact: Natalie Pearson @ 314-418-4087.

Also, a written statement that payment has been made in accordance with the ESA should be sent to the following individuals:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

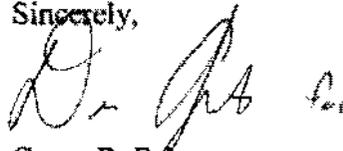
Deanne D. Grant  
EPCRA Enforcement Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303; and

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

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you need additional information in this matter, please call Deanne Grant at (404) 562-9291.

Sincerely,



Caron B. Falconer  
Chief  
EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

EXPEDITED SETTLEMENT  
AGREEMENT

RECEIVED  
EPA REGION IV  
2012 JAN 19 PM 4: 23  
HEARING CLERK

DOCKET NO: CAA-04-2012-8007(b)

This ESA is issued to: Smithfield Packaging Company, Inc.  
820 South 23<sup>rd</sup> Street  
Middlesboro, Kentucky 40965

for violating 40 CFR § 68.79, 40 CFR § 68.81, 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 Smithfield Packaging Company, Inc., (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 820 South 23<sup>rd</sup> Street, Middlesboro, Kentucky, on July 19, 2011, 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 had documented that compliance audit deficiencies had been corrected as required by 40 CFR § 68.79(d); and

It had established a system to promptly address and resolve incident report findings and recommendations as required by 40 CFR § 68.81(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 \$3,000.

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 \$3,000. **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 \$3,000, 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 D. Grant  
U. S. EPA Region 4  
EPCRA Enforcement Section  
61 Forsyth Street  
Atlanta, Georgia 30303

Upon Respondent's correction of alleged violations and 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.

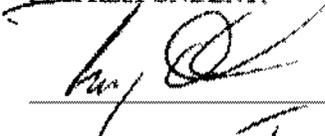
The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

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:

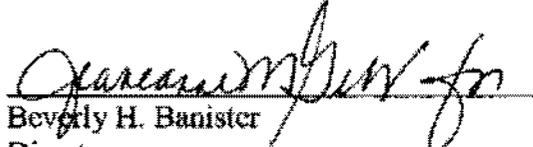


Date: 1-3-2012

Name (print): Terry O'Rourke

Title (print): Plant Manager  
Smithfield Packaging Company, Inc.

FOR COMPLAINANT:



Date: 12-6-11

Beverly H. Banister  
Director  
Air, Pesticides & Toxics  
Management Division  
Region 4

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

  
Susan B. Schub  
Regional Judicial Officer

Date: 4/19/12

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 Smithfield Packaging Company, Inc., CAA-04-2012-8007(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

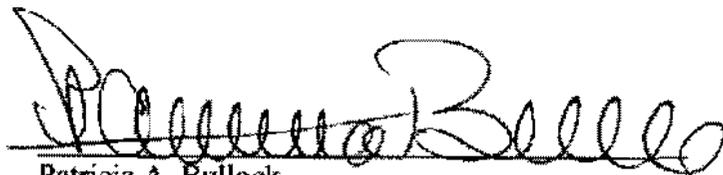
(Via EPA's internal mail)

Mr. Gary Schatz  
Safety Manager  
Smithfield Packaging Company, Inc.  
820 South 23<sup>rd</sup> Street  
Middlesboro, KY 40965

(Via Certified Mail -  
Return Receipt Requested)

Date:

1-19-12



Patricia A. Bullock  
Regional Hearing Clerk  
United States Environmental Protection Agency  
Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303  
404-562-9686