



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2009-0024

This ESA is issued to: ConAgra Foods

At: 204 Vine Street, Macon, Missouri 63552

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

The United States Environmental Protection Agency, Region 7 (EPA) and ConAgra Foods, 204 Vine Street, Macon, Missouri 63552 (Respondent), have agreed to a settlement of this action before filing of 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, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, and Waste Management Division. The Respondent is ConAgra Foods, 204 Vine Street, Macon, Missouri 63552.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Department of Justice jointly determined that in cases where the first alleged date of violation occurred more than one year before initiation of an administrative action and which meets the criteria set forth in EPA's policy entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provision, 40 C.F.R. Part 68," dated January 5, 2004, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On June 1, 2009, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 204 Vine Street, Macon, Missouri 63552, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (RMP Findings), which is 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 RMP Findings, for the total penalty amount of **\$1,560.00**.

This settlement is subject to the following terms and conditions:

The 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 RMP Findings, 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 Clean Air 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 the Respondent has corrected the violations listed in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$1,560.00** in payment of the full penalty amount to the following address:

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

The Docket Number of this ESA is CAA-07-2009-0024, and must be included on the check.

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

Dearina Smith
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

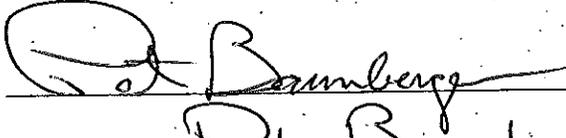
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other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

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by the 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 RMP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:



Date: 11/25/09

Name (print): Pat Baumberger

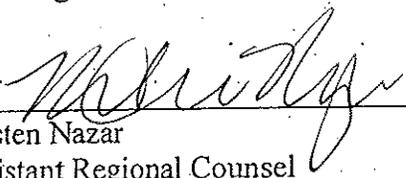
Title (print): Plant Manager
ConAgra Foods

FOR COMPLAINANT:



Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 12/14/07



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 12/13/09

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

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date: Dec. 9, 2009

Risk Management Program Inspection Findings

ConAgra Foods
204 Vine Street
Macon, Missouri 63552
Docket No. CAA-07-2009-0024

CAA § 112(r) Violations

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program
Operating Procedures [§ 68.69(c)]

\$ 600.00

The owner or operator failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary:

How was this addressed:

Risk Management Plan
Required Corrections [§ 68.195(a)]

\$2,000.00

The owner or operator failed to submit an updated RMP within six months of an accidental release or by the time the RMP was updated as required at § 68.190, whichever was earlier.

How was this addressed:

Total Unadjusted Penalty

\$2,600.00



Office of Regional Counsel
U.S. Environmental Protection Agency – Region 7
901 North 5th Street
Kansas City, Kansas 66101

RE: Docket Number CAA-07-2009-0024
ConAgra Foods, Macon Missouri

To Whom It May Concern:

The following is in response to the certified letter received on October 26, 2009 in reference to the Expedited Settlement Agreement for Risk Management Program Inspection Findings Docket No CAA-07-2009-0024. The above referenced letter outlined two deficiency findings and the purpose of this letter is to detail the steps that were taken at the facility to remedy these alleged deficiencies.

Operating Procedures [§ 68.69(c)]: The owner or operator failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary.

Response / Action(s) Taken: The Macon Missouri facility has completed a review of all the current operating procedures for the ammonia refrigeration system as of May 2009. In addition to this completed review, the facility has also implemented that the standard operating procedure review is included in the regular maintenance tasks that are conducted at the facility. This review requires that the refrigeration operators review the standard operating procedures for accuracy and utilize these procedures as they pertain to regularly performed maintenance tasks.

Risk Management Plan – Required Corrections [§ 68.195(a)]: The owner or operator failed to submit an updated RMP within six months of an accidental release or by the time the RMP was updated as required at § 68.190, whichever was earlier.

Response / Action(s) Taken: The facility completed a full re-submittal of the Risk Management Plan on June 1, 2009 utilizing the online submission tool. This included the updating of the 5-year accident history as it pertains to the incidents on August 9, 2009 and January 20, 2009.

Please accept the above as successful remediation of the alleged deficiencies outlined in Docket No CAA-07-2009-0024. Thank you for your time and consideration of this matter.

Sincerely,

Plant Manager

Macon, MO

IN THE MATTER OF ConAgra Foods, Respondent
Docket No. CAA-07-2009-0024

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day in the following manner to the addressees:

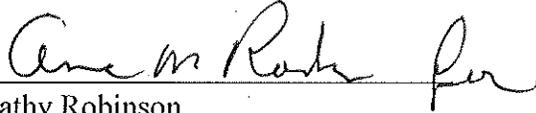
Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Pat Baumberger
Plant Manager
ConAgra Foods
204 Vine Street
Macon, Missouri 63552

Dated: 12/10/09


Kathy Robinson
Hearing Clerk, Region 7