

**FILED**

**Aug 14, 2024**

**4:00 pm**

**U.S. EPA REGION 4  
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

**EXPEDITED SETTLEMENT AGREEMENT**

**DOCKET NO: CAA-04-2024-0309(b)**

**This Expedited Settlement Agreement is issued to:**

**Koch Foods of Gadsden, LLC  
501 Paden Road  
Gadsden, Alabama 35903**

**for violating 40 C.F.R. § 68.65(d)(2), 40 C.F.R. § 68.90(b), 40 C.F.R. § 68.95, 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, Region 4, Director of the Enforcement and Compliance Assurance Division (Complainant), and Koch Foods of Gadsden, LLC (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.

**ALLEGED VIOLATIONS**

Based on a compliance monitoring inspection conducted on April 20, 2023, at the Respondent's facility located at 501 Paden Road, Gadsden, Alabama 35903, the EPA alleges that the Respondent violated the Act's Section 112(r)(7), Chemical Accident Prevention Provisions, 42 U.S.C. § 7412(r)(7), when at the time of inspection, Respondent did not provide evidence that:

1. It documented that the equipment complies with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2) because the audible and visual alarms at the entrances of the machinery room were not clearly marked with signage stating or illustrating the meaning of each alarm. International Institute of Ammonia Refrigeration (IIR) 9 (2020) Section 7.2.9.1 states, "the meaning of each alarm shall be clearly marked by signage near the visual and audible alarms."
2. It met the conditions exempting it from complying with 40 C.F.R. § 68.95 when, as a non-responding stationary source, it failed to provide any documentation illustrating compliance with 40 C.F.R. § 68.90(b)(1-5).

## SETTLEMENT

In consideration of such factors as Respondent's size, its full compliance history, its good faith efforts to comply, the duration and seriousness of the violation, and other factors as justice may require, the parties enter into this ESA to settle the violation(s) cited above, for the total penalty amount of **\$3,300.00**.

Within thirty (30) calendar days of receiving a copy of the fully executed ESA, Respondent shall: (1) pay the penalty and (2) send proof of payment as described below.

### **1. Pay Penalty**

Pay using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

When making a payment, Respondent shall identify every payment with Respondent's name and the docket number of this ESA, **CAA-04-2024-0309(b)**.

### **2. Send Proof of Payment**

Concurrently with any payment or within 24 hours of any payment, Respondent shall **send proof of such payment** to the following persons:

Regional Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov,

and

Chetan Gala  
Case Development Officer  
Gala.Chetan@epa.gov,

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
CINWD\_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to

EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

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.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits that EPA has jurisdiction over the subject matter alleged in this ESA, 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 as of the date of its execution of this ESA, it is in compliance with all relevant requirements of Section 112(r)(7) of the Act and 40 C.F.R. Part 68.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for federal civil penalties for the violation(s) alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. The EPA also does not waive any other enforcement action for any other violations of the Act or any other statute.

Late payment of the penalty may subject Respondent to interest, administrative costs, and late payment penalties in accordance with 40 C.F.R. § 13.11.

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.

**The Remainder of this Page Intentionally Left Blank**

FOR RESPONDENT:

Signature: Harold B. Hunt

Date: 8/6/24

Name (print): Harold B. Hunt

Title (print): Complex Manager

FOR COMPLAINANT:

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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.

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Regional Judicial Officer

## CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order in the Matter of Koch Foods of Gadsden, LLC, Docket No. CAA-04-2024-0309(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:** Harold B. Hunt, Complex Manager  
Koch Foods of Gadsden, LLC  
Harold.hunt@kochfoods.com  
256-549-6230

**To EPA:** Chetan Gala, Case Development Officer  
Gala.Chetan@epa.gov  
Phone Number: (404) 562-9746

Marirose Pratt, Associate Regional Counsel  
Pratt.Marirose@epa.gov  
Phone Number: (404) 562-9023

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Shannon L. Richardson, Regional Hearing Clerk  
U.S. EPA Region 4  
R4\_Regional\_Hearing\_Clerk@epa.gov