

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2020-8009(b)

**This ESA is issued to: ConAgra Foods, Inc.
1655 Old Columbia Road
Dickson, Tennessee, 37055**

for violating 40 C.F.R. § 68.39(e)(2), 40 C.F.R. § 68.65(d)(2), 40 C.F.R. § 68.67(e), 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 by ConAgra Foods, Inc. (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).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 1655 Old Columbia Road, Dickson, Tennessee, on December 17, 2019, 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:

It maintained the records of the data used to estimate the environmental receptors potentially affected in the offsite consequence analysis documentation as required by 40 C.F.R. § 68.39(e) when the documentation did not include the data used to estimate the list of environmental receptors potentially affected within the estimated distance to the toxic endpoint of 1.2 miles mentioned in the worst case scenario documentation;

The facility's equipment complies with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2), when one of the entrances to the ammonia machinery room did not have an audible/visual alarm outside the entry door, ammonia alarms on the exterior of the building (ammonia machinery room) were not labeled, presence of an unsupported and unprotected ammonia piping below the high-pressure receiver was identified, and a nonfunctioning eyewash and shower station located outside the ammonia machinery room was identified; and

It established a system to promptly address the Process Hazard Analysis (PHA) team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; and develop a written schedule of when these

actions are to be completed as required by 40 C.F.R. § 68.67(e), when the 2016 PHA recommendations/action items tracker did not include the resolution, only the date the recommendation was addressed or corrected.

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith efforts 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 cited above, for the total penalty amount of **\$3,300**.

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 appeal this ESA 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 the Respondent has corrected the alleged violations listed in this ESA.

Within **fifteen (15) days** of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of **\$3,300**. Respondent's payment shall be made by sending a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$3,300** in payment of the full penalty amount to one of the following addresses or via wire transfer:

For payment sent via electronic transfer

For payment by wire transfer, in lieu of a cashier's check or certified check, if desired, should be directed to the Federal Reserve Bank of New York using the following information:

ABA: 021030004

Account: 68010727

SWIFT address: FRNYUS33

33 Liberty Street

New York, New York 10045

Beneficiary: "U.S. Environmental Protection Agency";

The wire transfer instructions shall reference the Respondent's name and Docket Number of this ESA.

For payment sent via Standard Delivery

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

St. Louis, MO 63197-9000; or

For payment sent for Signed Receipt Confirmation (FedEx, DHL, UPS, USPS Certified, Registered, etc.)
U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Delivery Location Phone Number: 314- 425-1819

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:

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

Om P. Devkota
U.S. EPA Region 4
Air Enforcement Branch
61 Forsyth Street S.W.
Atlanta, Georgia 30303

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.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for Federal civil penalties for the violations alleged in this ESA. The EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

The parties consent to service of this Expedited Settlement Agreement and Final Order by e-mail at the following valid e-mail addresses: Devkota.Om@epa.gov and Dressler.Jason@epa.gov (for Complainant), and Jim.Ambrose@conagra.com and Adam.Platt@conagra.com (for Respondent).

**Remainder of This Page Intentionally Left Blank
Complainant And Respondent Will Each Sign on Next Page**

FOR RESPONDENT:

James F. Ambrose

Date: 3-24-20

Name (print): JAMES F. Ambrose

Title (print): Plant Manager
ConAgra Foods, Inc.

FOR COMPLAINANT:

**CAROL
KEMKER**

Digitally signed by
CAROL KEMKER
Date: 2020.05.19
07:59:35 -04'00'

Date: _____

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

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

Tanya Floyd
Regional Judicial Officer

Date: _____

CERTIFICATE OF SERVICE

I certify that the foregoing “Expedited Settlement Agreement,” in the Matter of ConAgra Foods, Inc., Docket No. CAA-04-2020-8009(b), were filed and copies of the same were mailed to the parties as indicated below.

Via Email:

Mr. Jim Ambrose
Plant Manager
ConAgra Foods, Inc.
1655 Old Columbia Road
Dickson, Tennessee, 37055
Email: Jim.Ambrose@conagra.com

Adam Platt, P.E.
Director, Environmental
ConAgra Foods, Inc.
Nine Conagra Drive – Mail Stop 9-240
Omaha, NE 68102
Email: Adam.Platt@conagra.com

Via EPA’s internal email:

Om Devkota
U.S. EPA, Region 4
Air Enforcement Branch
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Email: Devkota.om@epa.gov

Jason Dressler
Chief
Air Section 1, Air Enforcement Branch
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Email: Dressler.jason@epa.gov

DATE

Patricia A. Bullock, Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960