

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT AGREEMENT

FILED

Jul 08, 2024

9:00 am

U.S. EPA REGION 4
HEARING CLERK

DOCKET NO: CAA-04-2024-0302(b)

This ESA is issued to: Koch Foods of Mississippi, LLC
410 Koch Drive
Morton, Mississippi 39117

for violating 40 C.F.R. § 68.65(d)(2) 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 Koch Foods of Mississippi, 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 at the Respondent's facility located at 410 Koch Drive, Morton, Mississippi 39117 (the Facility), on September 12, 2023, 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 documented that equipment complies with recognized and generally accepted good engineering practices as required by 40 C.F.R. § 68.65(d)(2), because:

- a. One area of ammonia piping on the Facility's roof had breached/damaged insulation by "EC-3." Section 5.10.1 of American National Standards Institute/International Institute of Ammonia Refrigeration (ANSI/IIAR) 2 (2021) states, "*piping and equipment surfaces not intended for heat exchange shall be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup.*"
- b. Ammonia piping on the Facility's roof had missing or faded and peeling labels that did not indicate the contents and the physical state of the ammonia. Section 5.14.6 of ANSI/IIAR 2 (2021) states, "*Ammonia piping mains, headers and branches shall be identified with the following information:*
 1. "AMMONIA;"

2. *Physical state of the ammonia;*
3. *Relative pressure level of ammonia, being low or high as applicable;*
4. *Pipe service, which shall be permitted to be abbreviated; and*
5. *Direction of flow.*

The marking system shall either be one established by a recognized model code or standard or one described and documented by the facility owner.”

- c. Combustible materials such as pallets and cardboard boxes were stored in the Ammonia Machinery Room (AMR) outside of approved fire-rated storage containers. Section 6.4 of ANSI/IIAR 2 (2021) states, *“Combustibles materials or flammable liquids shall not be stored in machinery rooms outside of approved fire-rated storage containers.”*
- d. A ladder, box, and other items were blocking access to the eyewash/safety shower in the AMR. Section 6.7.1.2 of ANSI/IIAR 2 (2021) states *“The path of travel within the machinery room to at least one eyewash/safety shower unit shall be unobstructed and shall not include intervening doors.”*
- e. An eyewash/safety shower was not located outside the AMR. Section 6.7.2 of ANSI/IIAR 2 (2021) states *“A minimum of one eyewash/safety shower unit shall be located outside the machinery room and shall be no further than 55 ft. from the outside of the machinery room door.”*
- f. Panic hardware was not on the two doors exiting the AMR. Section 6.10.2 of ANSI/IIAR 2 (2021) states *“Machinery room doors shall be self-closing and tight-fitting. Doors that are part of the means of egress shall be equipped with panic hardware and shall be side hinged to swing in the direction of egress for occupants leaving the machinery room. Machinery room doors shall open with the use of only panic hardware and shall not require the use of other hardware or switches to exit the room. Where the machinery room is not provided with fire sprinklers, doors communicating with the building interior shall be one-hour-fire-rated. Doors to the outdoors shall be fire-rated where required by the building code based on the fire rating required for exterior wall openings.”*
- g. An elbow-shaped section of insulated ammonia piping on the roof was not resting on pipe support. Section 13.4.2 of ANSI/IIAR 2 (2021) states *“Refrigerant piping shall be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact.”*

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 **\$1,500**.

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-04-2024-0302(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

Justin Stark, Case Development Officer
stark.justin@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.

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FOR RESPONDENT:

WQ JM

Date: 05/24/2024

Name (print): WORD STRENGTH

Title (print): COMPLEX MANAGER - MS PREPARED FOODS
Koch Foods of Mississippi, LLC

FOR COMPLAINANT:

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.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order in the Matter of Koch Foods of Mississippi, LLC, Docket No. CAA-04-2024-0302(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: Word Strength, Complex Manager
Koch Foods of Mississippi, LLC
Email: worstr@kochfoods.com
Phone number: (601) 732-3255
410 Koch Drive
Morton, Mississippi 39117

To EPA: Justin Stark, Case Development Officer
stark.justin@epa.gov
Phone number: (404) 562-8305

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

Shannon L. Richardson, Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov