

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103-2852



IN THE MATTER OF:)

DOCKET NO.: CAA-03-2023-0076)

The Clemens Family Corporation)
2700 Clemens Road)
Hatfield, PA 19440)

EXPEDITED SETTLEMENT)
AGREEMENT AND FINAL ORDER)

Respondent)

Clemens Food Group)
2700 Clemens Road)
Hatfield, PA 19440)

Site/Facility)

EXPEDITED SETTLEMENT AGREEMENT

1. The Clemens Family Corporation (“Respondent”) and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“the Agreement”) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the “Act” or “CAA”), 42 U.S.C. § 7413(a)(3), and (d) and Sections 22.13(b), and 22.18(b)(2), and (3) of *the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. § 22.13(b), and 22.18(b)(2), and (3). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III (“EPA”) has jurisdiction over this matter pursuant to Section 113(a)(3) and (d) of the Act, 42 U.S.C. § 7413(a)(3) and (d), and 40 C.F.R. §§ 22.1(a)(2) and 22.4 of the Consolidated Rules of Practice.
3. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner and operator of a “stationary source,” as the term is defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

4. On August 31, 2022, a representative of EPA conducted an inspection of Respondent's facility known as Clemens Food Group at 2700 Clemens Road in Hatfield, PA to determine compliance with Section 112(r) of the Act, 42 U.S.C. § 7412(r), and the Risk Management Program ("RMP) regulations promulgated at 40 C.F.R. Part 68, and observed that Respondent handles a maximum of approximately 135,586 pounds of anhydrous ammonia at the Facility.
5. The substance, anhydrous ammonia, is a regulated toxic/flammable substance for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because it is listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130. The threshold quantity for the regulated toxic substance is 10,000 pounds for anhydrous ammonia, pursuant to 40 C.F.R. § 68.130, Table [1/3]. More than a threshold quantity of a regulated substance is present in a process at the Facility.
6. Complainant has identified the following violations of the RMP regulations:
 - a. From at least August 9, 2017, until January 18, 2023, Respondent failed to ensure process equipment complies with generally accepted good engineering practices in accordance with industry codes and standards, in violation of 40 C.F.R. § 68.65.
7. Complainant and Respondent agree that settlement of this matter for a penalty of \$1,500 (one thousand five hundred dollars) is in the public interest. In calculating this amount, Complainant considered a number of factors, including, but not limited to, the seriousness of the violation and the other factors provided in CAA Section 113(e)(1), EPA's *Combined Enforcement Policy for CAA Section 112(r) Risk Management Program dated June 20, 2012*, and EPA's Expedited Settlement Policies in Addressing Violations of CAA 112(r) Risk Management Program Regulations dated May 5, 2000, January 5, 2004, and December 20, 2013.
8. Respondent agrees that, within 30 days of the effective date of this Consent Agreement, Respondent shall make a payment of **\$ 1,500** by one of four methods: 1) electronic funds transfer ("EFT"), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier's check or certified check payable to "**United States Treasury**", with the case name, address and docket number of this Agreement (CAA-03-2023-0076), for the amount specified above.
 - a. Payment of the penalty amount by EFT:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045

Beneficiary: Environmental Protection Agency

b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706

Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility

5700 Rivertech Court

Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a user name and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the “Type of Payment” drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via U.S. mail to:

U.S. Environmental Protection Agency

P.O. Box - Cincinnati Finance Center Box 979078

St. Louis, MO 63197-9000

e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:

U.S. Environmental Protection Agency

Government Lock Box - Cincinnati Finance Center Box 979078

1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

f. A list of the payment methods is also provided at this website
<https://www.epa.gov/financial/makepayment>.

9. Within 24 hours of payment, the Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Patrick Beckley (3ED41)
beckley.patrick@epa.gov

and

Regional Hearing Clerk (3RC00)
R3_Hearing_Clerk@epa.gov

10. The Respondent certifies that, since its last Risk Management Plan update required pursuant to 40 C.F.R. § 68.190, it has not done either of the following: (a) introduced a new regulated substance at the facility in an amount greater than its threshold quantity; or (b) introduced a new process which uses a regulated substance in an amount greater than its threshold quantity.
11. In signing this Agreement, the Respondent admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Agreement.
12. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) he or she has corrected the violations, and (2) any documentation or information that he or she provided to EPA was true and accurate.
13. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations in this Agreement.
14. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and

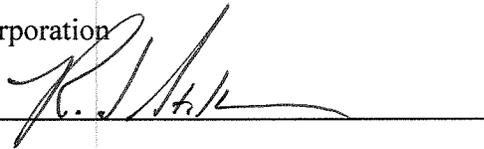
substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) and Section 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement, following its filing with the Regional Hearing Clerk.

15. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
16. COST OF COMPLIANCE: Respondent certifies that it has expended \$ 274.00 to correct the alleged violation(s) and to come into compliance.
17. This Agreement is binding on the parties signing below and is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
18. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Clemens Food Group.
19. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: beckley.patrick@epa.gov (for Complainant), and rstoker@clemensfoodgroup.com (for Respondent).
20. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

For Respondent: The Clemens Family Corporation

Date: 8-30-23
Roderick Stoker
PSM Coordinator

By: _____



For Complainant: U.S. Environmental Protection Agency, Region III

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

[Digital Signature and Date]

Karen Melvin, Director
Enforcement and Compliance Assurance Division

NOW, THEREFORE, PURSUANT TO Section 113(d)(1) of the CAA, 42 U.S.C. §7413(d)(1), and in accordance with Section 18(b)(3) of the Consolidated Rules of Practice, 40 C.F.R. Part 22, and having relied upon the representations of the parties set forth in this Agreement, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **\$1,500.00 (ONE THOUSAND FIVE HUNDRED DOLLARS)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, and the regulations promulgated thereunder.

This Expedited Settlement Agreement and Final Order will be effective upon filing.

[*Digital Signature and Date*]

Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

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Clemens Food Group)	
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)	
Site/Facility.)	
)	

CERTIFICATE OF SERVICE

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Expedited Settlement Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Roderick Stoker, PSM Coordinator
Clemens Food Group
rstoker@clemensfoodgroup.com
2700 Clemens Road
Hatfield, PA 19440

Patrick Beckley (3ED40)
RMP Inspector
U.S. EPA, Region III
beckley.patrick@epa.gov

Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III