

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2020-8002(b)

**This ESA is issued to: Ebrofrost North America, Inc.
2360 Prospect Street
Memphis, Tennessee 38106**

for violating 40 C.F.R. § 68.77(a) 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, EPA, Region 4, the Director of the Enforcement and Compliance Assurance Division (Complainant), and by Ebrofrost North America, 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 2360 Prospect Street, Memphis, Tennessee, on December 17, 2019, the EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Provisions, when at the time of inspection, Respondent did not provide evidence that:

A pre-startup safety review (PSSR) was completed as required by 40 C.F.R. § 68.77(a).

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 **\$720**.

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 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.

By executing this ESA, Respondent certifies to the best of its knowledge that it is currently in compliance with the Act's Chemical Accident Prevention Provisions in Section 112(r), 42 U.S.C. § 7412(r) and implementing regulations.

Within **fifteen (15) days** of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of **\$720**. 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 **\$720**, 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
bullock.patricia@epa.gov, and

Cornell D. Gayle, PE
U.S. EPA Region 4
Compliance Assistance Branch
61 Forsyth Street S.W.
Atlanta, Georgia 30303
gayle.cornell@epa.gov

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.

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:



Name (print): Tim Gyovai

Title (print): Plant Manager
Ebrofrost North America, Inc.

FOR COMPLAINANT:

Carol L. Kemker
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 hereby certify that the foregoing "Expedited Settlement Agreement" and "Final Order," in the Matter of Ebrofrost North America, Inc., Docket No. CAA-04-2020-8002(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: Mr. Tim Gyovai
 Plant Manager
 Ebrofrost North America, Inc.
 2360 Prospect Street
 Memphis, Tennessee 38106
 TGyovai@riviana.com
 (540) 303-3443

To EPA: Cornell D. Gayle, PE, RMP Inspector
 gayle.cornell@epa.gov
 (404) 562-9105

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

 U.S EPA Region 4
 61 Forsyth Street, S.W.
 Atlanta, Georgia 30303-8960

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