

NORTH CAROLINA DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

OSH INSPECTION NO. 313215956

INFORMAL SETTLEMENT AGREEMENT

This Agreement is entered into by and between the Division of Occupational Safety and Health, North Carolina Department of Labor (hereinafter "OSH Division"), and the following Employer:

ConAgra Foods, Inc.
(hereinafter "the Employer")

The OSH Division and the Employer specifically agree to the following items:

1. The parties to this Agreement agree and understand that this Settlement Agreement is fully binding, is made for good consideration, and is fully enforceable in a court of law.
2. The Employer maintained a jobsite at the following address:
4851 Jones Sausage Road, Garner, NC, 27529
3. From June 9, 2009 through December 1, 2009, a team of compliance officers from the OSH Division of the North Carolina Department of Labor conducted an inspection ("Inspection") of the Employer's workplace following an incident that occurred at the workplace on June 9, 2009.
4. Based upon that inspection, on December 1, 2009, the OSH Division issued a Citation and Notification of Penalty to the Employer (hereinafter, the NCOSHA-2), alleging violations of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "OSH Act") and/or the standards and regulations promulgated thereunder.

5. This Agreement modifies the aforementioned NCOSHA-2 for settlement purposes only as follows:

<u>CITATION</u>	<u>ITEM</u>	<u>OLD PENALTY</u>	<u>NEW PENALTY</u>	<u>COMMENTS</u>
1	1	\$ 6,300.00	\$ 26,775.00	Penalty Reduction
1	2	\$ 6,300.00	Group with Citation 1 Item 1	
1	3	\$ 6,300.00	Group with Citation 1 Item 1	
1	4	\$ 6,300.00	Group with Citation 1 Item 1	
1	5	\$ 6,300.00	Group with Citation 1 Item 1	
1	6	\$ 2,275.00	\$ 1,934.00	Delete Instance (c)

Citation items listed in the original NCOSHA-2 which are not hereby modified shall remain in effect.

6. In consideration of this Agreement, the Employer agrees to:
 - a. Waive its rights under the OSH Act to contest any citation items, penalties or abatement dates listed on the NCOSHA-2 before the N.C. Safety and Health Review Commission or in any other tribunal.
 - b. Pay the total penalty assessment of **\$28,709.00** within 30 days of the date of this Agreement.

7. The Employer agrees to continue to use its best efforts to comply with the requirements of the OSH Act;

8. With regard to prevention of hazards in the workplace, the Employer agrees to:
 - a. Prescreen the contractor's safety compliance record using the inspections data of the federal Occupational Safety and Health Administration website (<http://www.osha.gov>), and review contractors' familiarity with occupational safety and health laws, regulations or practices, safety and health programs and equipment, and understanding of the hazards encountered in the contractor's facilities; specifically with regard to Process Safety Management and the hazards inherent with that process;
 - b. Develop a specific program to incorporate the contractor's safety and health program and the employer's safety and health program at the workplace based upon the evaluation referenced in Paragraph 8(a), above. The program will contain specific provisions to ensure a compatible

overall program that will ensure that the employer's employees are protected and are in compliance with OSHANC rules and regulations;

9. The Employer will make written changes to its present safety program to include measures to correct any continuing, ongoing or repeating hazards noted by the OSH Division during this inspection and inspections made by the Employer;

10. The Employer will conduct pre-construction conferences with contractors at which the Employer will address: (a) the safety and health hazards anticipated at the job site; and, (b) the Employer's safety and health policies for the job site;

11. The parties agree to bear their own attorneys' fees, costs and other expenses incurred to date in this matter.

12. This Agreement and the underlying NCOSHA-2 shall be prominently posted in a location accessible to employees at or near the location of the alleged violations.

13. The Employer agrees that the undersigned individual has authority to bind the company, organization, and /or corporation to the terms and conditions of this agreement.

WHEREFORE, the undersigned parties enter into and execute this Agreement.

This the 11th day of January, 2010.

**FOR THE NORTH CAROLINA
DEPARTMENT OF LABOR –
OSH DIVISION:**

FOR CONAGRA FOODS, INC.:

Ron Wells (SEAL)

Patrick M. Meacham (SEAL)

Ron Wells
Name

PATRICK M. MEACHAM
Name

Supervisor, OSH Compliance Bureau East
Title

Outside Counsel
Title

313215956
OSH Inspection Number

NORTH CAROLINA DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

OSH INSPECTION NO. 313217408

INFORMAL SETTLEMENT AGREEMENT

This Agreement is entered into by and between the Division of Occupational Safety and Health, North Carolina Department of Labor (hereinafter "OSH Division"), and the following Employer:

ConAgra Foods, Inc.
(hereinafter "the Employer")

The OSH Division and the Employer specifically agree to the following items:

1. The parties to this Agreement agree and understand that this Settlement Agreement is fully binding, is made for good consideration, and is fully enforceable in a court of law.
2. The Employer maintained a jobsite at the following address:
4851 Jones Sausage Road, Garner, NC, 27529
3. From June 9, 2009 through December 1, 2009, a team of compliance officers from the OSH Division of the North Carolina Department of Labor conducted an inspection ("Inspection") of the Employer's workplace following an incident that occurred at the workplace on June 9, 2009.

4. Based upon that inspection, on December 1, 2009, the OSH Division issued a Citation and Notification of Penalty to the Employer (hereinafter, the NCOSHA-2), alleging violations of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "OSH Act") and/or the standards and regulations promulgated thereunder.

5. This Agreement modifies the aforementioned NCOSHA-2 for settlement purposes only as follows:

a. Citation 1, Items 1 through 8:

i. Amend the wording of Citation 1, Item 1 as follows:

North Carolina General Statute 95-129(1) of the Occupational Safety and Health Act of North Carolina: The employer did not furnish each of his employees conditions of employment and a place of employment free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to: Struck By/ Crushed By / Thermal Burns due to the presence of unclassified electrical equipment in an enclosed room where natural gas was being released.

a) Pump room #2 – on 6/9/09, from approximately 9:30 A.M. until 10:30 A.M., a contractor was attempting to light the "Maxi-Miser" on demand natural gas fired water heater. The contractor removed the pressure gauge on the 3/8 inch pilot line and opened the supply valve multiple times that allowed a pressurized air mixture containing natural gas to be released in an enclosed room that contained ignition sources including unclassified electrical equipment such as motors and circuit panels.

ii. Delete Citation 1, Items 2 through 8.

iii. Amend the penalty to **\$42,840.00**.

b. Citation 1, Items 9 through 11:

i. Amend the wording of Citation 1, Item 9 as follows:

North Carolina General Statute 95-129(1) of the Occupational Safety and Health Act of North Carolina: The employer did not furnish each of his employees conditions of employment and a

place of employment free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to: Struck By/ Crushed By / Thermal Burns due to the presence of non-safety artificial illumination in a room where work was being performed on piping that contained natural gas.

- a) Pump room #2 - on or about 6/9/09 a contractor was attempting to light the "Maxi-Miser" on demand natural gas and propane fired water heater system. The contractor removed and replaced a pressure gauge in the active 3/8" pilot gas line with the aid of a temporary incandescent light strand that was not listed as safety type.
 - b) Pump room #2 - on or about 6/9/09 a contractor was attempting to light the "Maxi-Miser" on demand natural gas and propane fired water heater system. The contractor removed and replaced a pressure gauge in the active 3/8" pilot gas line with the aid of two ceiling mounted metal halide lamps that were not listed as safety type.
- ii. Delete Citation 1, Items 10 and 11.
 - iii. Amend the penalty to **\$16,065.00**.
- c. Citation 1, Items 12 and 13 are hereby deleted.
 - d. Citation 1, Items 14 through 16:
 - i. Amend the wording of Citation 1, Item 14 as follows:

29 CFR 1926.21(b)(5): Employees required to handle or use flammable liquids, gases, or toxic materials were not instructed in the safe handling and use of these materials:

 - a) Facility to include areas where flammable gas is being used – employees were not trained by the employer about the general hazards of working with natural gas.
 - ii. Delete Citation 1, Items 15 and 16.
 - iii. Amend the penalty to **\$16,065.00**.

6. In consideration of this Agreement, the Employer agrees to:
 - a. Waive its rights under the OSH Act to contest any citation items, penalties or abatement dates listed on the NCOSHA-2 before the N.C. Safety and Health Review Commission or in any other tribunal.
 - b. Pay the total penalty assessment of **\$74,970.00** within 30 days of the date of this Agreement.
7. The Employer agrees to continue to use its best efforts to comply with the requirements of the OSH Act;
8. With regard to prevention of hazards in the workplace, the Employer agrees to:
 - a. Prescreen the contractor's safety compliance record using the inspections data of the federal Occupational Safety and Health Administration website (<http://www.osha.gov>), and review contractors' familiarity with occupational safety and health laws, regulations or practices, safety and health programs and equipment, and understanding of the hazards encountered in the contractor's facilities;
 - b. Develop a specific program to incorporate the contractor's safety and health program and the employer's safety and health program at the workplace based upon the evaluation referenced in Paragraph 8(a), above. The program will contain specific provisions to ensure a compatible overall program that will ensure that the employer's employees are protected and are in compliance with OSHANC rules and regulations;
9. The Employer will make written changes to its present safety program to include measures to correct any continuing, ongoing or repeating hazards noted by the OSH Division during this inspection and inspections made by the Employer;
10. The Employer will conduct pre-construction conferences with contractors at which the Employer will address: (a) the safety and health hazards anticipated at the job site; and, (b) the Employer's safety and health policies for the job site;
11. The parties agree to bear their own attorneys' fees, costs and other expenses incurred to date in this matter.
12. This Agreement and the underlying NCOSHA-2 shall be prominently posted in a location accessible to employees at or near the location of the alleged violations.

13. The Employer agrees that the undersigned individual has authority to bind the company, organization, and /or corporation to the terms and conditions of this agreement.

WHEREFORE, the undersigned parties enter into and execute this Agreement.

This the 11th day of January, 2010.

**FOR THE NORTH CAROLINA
DEPARTMENT OF LABOR -
OSH DIVISION:**

Ron Wells (SEAL)

Ron Wells
Name

Supervisor, OSH Compliance Bureau East
Title

313217408
OSH Inspection Number

FOR CONAGRA FOODS, INC.:

Patrick M. Mercham (SEAL)

PATRICK M. MERCHAM
Name

Outside Counsel
Title

NORTH CAROLINA DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

OSH INSPECTION NO. 313217390

INFORMAL SETTLEMENT AGREEMENT

This Agreement is entered into by and between the Division of Occupational Safety and Health, North Carolina Department of Labor (hereinafter "OSH Division"), and the following Employer:

ConAgra Foods, Inc.
(hereinafter "the Employer")

The OSH Division and the Employer specifically agree to the following items:

1. The parties to this Agreement agree and understand that this Settlement Agreement is fully binding, is made for good consideration, and is fully enforceable in a court of law.
2. The Employer maintained a jobsite at the following address:
4851 Jones Sausage Road, Garner, NC, 27529
3. From June 9, 2009 through December 1, 2009, a team of compliance officers from the OSH Division of the North Carolina Department of Labor conducted an inspection ("Inspection") of the Employer's workplace following an incident that occurred at the workplace on June 9, 2009.

4. Based upon that inspection, on December 1, 2009, the OSH Division issued a Citation and Notification of Penalty to the Employer (hereinafter, the NCOSHA-2), alleging violations of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "OSH Act") and/or the standards and regulations promulgated thereunder.

5. This Agreement modifies the aforementioned NCOSHA-2 for settlement purposes only as follows:

<u>CITATION</u>	<u>ITEM</u>	<u>OLD PENALTY</u>	<u>NEW PENALTY</u>	<u>COMMENTS</u>
1	1	\$ 812.00	\$ 690.00	Penalty Reduction
1	2	\$ 812.00	\$ 2071.00	Penalty Reduction
1	3	\$ 812.00	Group with Citation 1 Item 1	
1	4	\$ 812.00	Group with Citation 1 Item 1	

Citation items listed in the original NCOSHA-2 which are not hereby modified shall remain in effect.

6. In consideration of this Agreement, the Employer agrees to:
 - a. Waive its rights under the OSH Act to contest any citation items, penalties or abatement dates listed on the NCOSHA-2 before the N.C. Safety and Health Review Commission or in any other tribunal.
 - b. Pay the total penalty assessment of **\$2,761.00** within 30 days of the date of this Agreement.

7. The Employer agrees to continue to use its best efforts to comply with the requirements of the OSH Act;

8. With regard to prevention of hazards in the workplace, the Employer agrees to:
 - a. Prescreen the contractor's safety compliance record using the inspections data of the federal Occupational Safety and Health Administration website (<http://www.osha.gov>), and review contractors' familiarity with occupational safety and health laws, regulations or practices, safety and health programs and equipment, and understanding of the hazards encountered in the contractor's facilities;
 - b. Develop a specific program to incorporate the contractor's safety and health program and the employer's safety and health program at the workplace based upon the evaluation referenced in Paragraph 8(a), above.

The program will contain specific provisions to ensure a compatible overall program that will ensure that the employer's employees are protected and are in compliance with OSHANC rules and regulations;

9. The Employer will make written changes to its present HAZ COM program to include measures to correct any continuing, ongoing or repeating hazards noted by the OSH Division during this inspection and inspections made by the Employer;

10. The Employer will conduct pre-construction conferences with contractors at which the Employer will address: (a) the safety and health hazards anticipated at the job site; and, (b) the Employer's safety and health policies for the job site;

11. The parties agree to bear their own attorneys' fees, costs and other expenses incurred to date in this matter.

12. This Agreement and the underlying NCOSHA-2 shall be prominently posted in a location accessible to employees at or near the location of the alleged violations.

13. The Employer agrees that the undersigned individual has authority to bind the company, organization, and /or corporation to the terms and conditions of this agreement.

WHEREFORE, the undersigned parties enter into and execute this Agreement.

This the 11th day of January, 2010.

**FOR THE NORTH CAROLINA
DEPARTMENT OF LABOR –
OSH DIVISION:**

Ron Wells (SEAL)

Ron Wells
Name

Supervisor, OSH Compliance Bureau East
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313217390
OSH Inspection Number

FOR CONAGRA FOODS, INC.:

Patrick M. Merham (SEAL)

PATRICK M. MERHAM
Name

OUTSIDE COUNSEL
Title