



UNITED STATES ENVIRONMENTAL PROTECTION  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

NOV 08 11:41 AM

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2018-0284

**This ESA is issued to:** Dawn Food Products, Inc.

**At:** 1400 Vance Road, Mexico, Missouri 65265

**for violating Section 112(r)(7) of the Clean Air Act.**

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The United States Environmental Protection Agency, Region 7 (EPA) and Dawn Food Products, Inc. (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air and Waste Management Division. Respondent is Dawn Food Products, Inc., 1400 Vance Road, Mexico, Missouri 65265.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet the criteria set forth in EPA's policies entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions, 40 C.F.R. Part 68," dated January 5, 2004, and "Changes to Restrictions on the Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provisions," dated December 20, 2013, are appropriate for administrative penalty action.

#### **ALLEGED VIOLATIONS**

On April 24-25, 2018, an authorized representative of the EPA conducted a compliance inspection of Respondent's facility located at 1400 Vance Road, Mexico, Missouri, to determine compliance with the Chemical Accident Prevention Provisions (CAPP), commonly known as the Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that Respondent had violated regulations implementing Section 112(r) of the CAA by failing to comply with the regulations as noted on the enclosed Chemical Accident Prevention Provisions Inspection Findings (CAPP Inspection Findings), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort 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, described in the enclosed CAPP Inspection Findings, for the total penalty amount of **\$5,100**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the CAPP Inspection Findings, 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 CAA, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations listed in the enclosed CAPP Inspection Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$5,100** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The Docket Number of this ESA is CAA-07-2018-0284, and must be included on the check.

This original ESA, a copy of the completed CAPP Inspection Findings, and a copy of the check must be sent by certified mail to:

Christine Hoard  
Chemical & Oil Release Prevention Branch  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

A copy of the check must also be sent to:

Lisa Haugen  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

Full payment of the ESA penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged in the CAPP Inspection Findings. The EPA does not waive any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the CAPP Inspection Findings.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:



Date: 11-30-2018

Name (print): Ed Casady

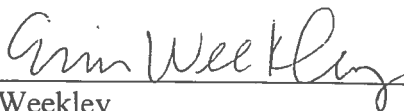
Title (print): EHS Manager  
Dawn Food Products, Inc.

FOR COMPLAINANT:



\_\_\_\_\_  
Mark A. Smith  
Acting Director  
Air and Waste Management Division  
EPA Region 7

Date: 12/6/18



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Erin Weekley  
Chemical Management Branch Chief  
Office of Regional Counsel  
EPA Region 7

Date: 12/10/18

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

Karina Borrromeo

Karina Borrromeo  
Regional Judicial Officer

Date: Dec. 12, 2018

IN THE MATTER OF  
Dawn Food Products, Inc.  
Docket No. CAA-07-2018-0284

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:

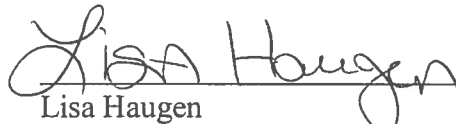
Copy by First Class Mail to Respondent:

Mr. Casady  
E H & S Manager  
Dawn Food Products  
1400 Vance Road  
Mexico, MO 65265

And

Via email to:  
Christine Hoard (EPA)

Dated: Dec 12, 2018

  
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Lisa Haugen  
Hearing Clerk, Region 7