



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

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HEARINGS CLERK  
EPA--REGION 10

EXPEDITED SETTLEMENT AGREEMENT

**DOCKET NO:** CAA-10-2015-0010  
**This ESA is issued to:** The Kroger Company  
1014 Vine Street  
Cincinnati, Ohio 45202

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a) (3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On October 18, 2013, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d) (1) of the Act, 42 U.S.C. § 7413(d) (1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, 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 Summary for the total penalty amount of **\$2,000**.

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 Summary, 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. 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 Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$2,000 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, MO 63197-9000

The docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

This original ESA and a copy of the check must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator  
Office of Environmental Cleanup  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-084  
Seattle, Washington 98101

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA at the above address 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 Summary.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Signature: Marilana Embrey Date: 10-10-14  
Name (print): Marilana Embrey  
Title (print): General Manager  
Cost to correct violation(s): N/A \$2,000 penalty

FOR COMPLAINANT:

Edward J. Kowalski Date: 11/3/2014  
Edward J. Kowalski  
Director  
Office of Compliance and Enforcement

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

M. Socorro Rodriguez Date: 11/17/14  
M. Socorro Rodriguez  
Regional Judicial Officer  
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: The Kroger Company, Swan Island Dairy, Docket No.: CAA-10-2015-0010**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

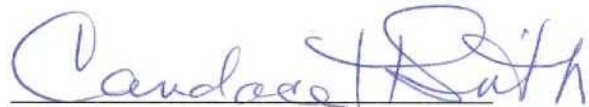
The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, OCE-084  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Marlana Embry  
General Manager  
Swan Island Dairy  
4950 North Basin Avenue  
Portland, Oregon 97217

DATED this 18<sup>th</sup> day of November, 2014

  
Signature

Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10