



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

REGIONAL HEARING  
CLERK

2011 FEB 20 P 12:17

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II

**EXPEDITED SETTLEMENT AGREEMENT**

Docket Number: CAA-02-2014-1216

This ESA is issued to: Wegmans Food Markets, Inc., Frozen Foods Facility  
Rochester, New York 14264

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

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This Expedited Settlement Agreement (“ESA”) is being entered into by the United States Environmental Protection Agency (“EPA”), Region 2, by its duly delegated official, the Director, Emergency & Remedial Response Division, and by Wegmans Food Markets, Inc., Frozen Foods Facility (“Respondent”), pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). EPA and the U.S. Department of Justice have determined, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that EPA may pursue this type of case through administrative enforcement action.

ALLEGED VIOLATIONS

On February 28, 2013, an authorized representative of EPA conducted a compliance inspection of Respondent’s facility located at 500 Wegmans Market Street, Rochester, New York to determine compliance with the Risk Management Plan (“RMP”) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA found that the Respondent had violated these regulations implementing Section 112(r) of the Act.

SETTLEMENT

In consideration of Respondent’s size, 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 this ESA in order to settle the violations described in the Findings section of EPA’s inspection report for a total penalty amount of \$1,080.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations, and consents to the assessment of the penalty as stated above. Without further notice, 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 waives its rights to appeal this ESA, and consents to EPA’s approval of the 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 identified in the Program 3 Penalty Checklist.

If the Respondent chooses to continue with the ESA process and agree to its' terms, please sign this ESA and return it, within 14 days, to:

Francesco Maimone  
USEPA Region 2  
Response & Prevention Branch MS-211  
2890 Woodbridge Ave.  
Edison, New Jersey 08837

If the signed original ESA is not returned by the Respondent to the EPA Region 2 office at the above address in the correct form within 14 days of the date of Respondent's receipt of it, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in the Program 3 Penalty Checklist.

Please note that upon Respondent's submission of the signed original ESA, and payment of the penalty as set forth in the next mailing, provided the Respondent complies with its terms, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Program 3 Penalty Checklist. EPA does not waive its right to take enforcement action for other violations of the Clean Air Act or for violations of any other statute. Additionally, please note that the penalty specified in this ESA shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or Federal taxes.

This document will be returned to you after the Regional Judicial Officer of EPA Region 2 has signed and further penalty payment information will be sent in a subsequent mailing.

In addition, if Respondent fails to comply with the provisions of this ESA, by either failing to timely submit the above-referenced payment, or by failing to correct the violations listed in the Program 3 Penalty Checklist, Respondent agrees that upon written notice from EPA, that this agreement shall become null and void, and that EPA may file an administrative or civil enforcement action against Respondent for the violations of the regulations cited herein.

This ESA is binding on the parties signing below and becomes effective upon filing with the Regional Hearing Clerk.

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FOR RESPONDENT:



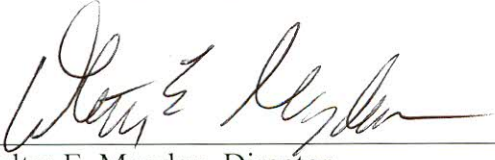
Date: January 27, 2014

Name (print): Ralph A. Uttaro  
Wegmans Food Markets, Inc.  
Title (print): Senior Vice President  
Real Estate Development

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Wegmans Food Markets, Inc., Frozen Foods Facility, Rochester, New York 14264

FOR COMPLAINANT:



Date: 2/7/14

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Walter E. Mugdan, Director  
Emergency and Remedial Response  
Division, Region II

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



Date: 2/11/14

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Helen Ferrara  
Regional Judicial Officer  
U.S. EPA, Region 2



CERTIFICATE OF SERVICE

Docket #: CAA-02-2014-1214, CAA-02-2014-1215, CAA-02-2014-1216

I certify that the attached Wegmans Food Markets, Inc., Culinary Innovation Facility; Wegmans Food Markets, Inc., Fresh Foods Facility; and Wegmans Food Markets, Inc., Frozen Foods Facility Risk Management Program Expedited Settlement Agreements were sent in the following manner, on February 18, 2014, to the addressees listed below.

Original and One Copy Delivered by hand to Regional Hearing Clerk's Office:

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

One Copy Delivered by U.S. Postal Service Standard Mail:

Craig Haas  
USEPA Headquarters  
William Jefferson Clinton Building  
1200 Pennsylvania, Ave, N.W.  
Mail Code: 2249A  
Washington, DC 20460


One Copy Delivered by Inter-Office Mail:

Karl Mangels  
21<sup>st</sup> Floor  
DECA

One Copy Delivered by Inter-Office Mail:

Jean Regna  
17<sup>th</sup> Floor ORC

Dated: 2/19/14

  
Christina Ekstedt  
ERRD RPB Secretary  
U.S. Environmental Protection Agency  
ERRD RPB, Region 2