



**UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3188

ENFORCEMENT &  
COMPLIANCE ASSURANCE  
DIVISION

**EXPEDITED SETTLEMENT AGREEMENT**

**DOCKET NO:** CAA-10-2021-0060  
**This ESA is issued to:** American Freeze Dry Inc.  
6025 Portal Way  
Ferndale, Washington

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by American Freeze Dry Inc. ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On November 3, 2020, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

**ALLEGED VIOLATIONS**

EPA has determined that Respondent violated the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (CAA), as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary ("Summary"), which is hereby incorporated by reference.

**SETTLEMENT**

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), 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 **\$1,200**.

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 contest the allegations contained herein or in the Summary, 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 Summary.

Respondent agrees to submit payment in full of the \$1,200 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This original ESA must be sent by certified mail to:

Javier Morales, 112(r) Enforcement Coordinator  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 155, Mail Stop: 20-C04  
Seattle, Washington 98101-3188


Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA is not returned to the EPA Region 10 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:  Date: 4/15/2021  
Name (print): TONY CULLUM  
Title (print): FACILITY DIRECTOR  
Cost to correct violation(s): \$1200.00

FOR COMPLAINANT:

\_\_\_\_\_  
Edward J. Kowalski  
Director  
Enforcement & Compliance Assurance Division  
Date: \_\_\_\_\_

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

\_\_\_\_\_  
Richard Mednick  
Regional Judicial Officer  
Date: \_\_\_\_\_