

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PA 19103-2029**

**EXPEDITED PENALTY
ACTION AND
CONSENT AGREEMENT
DOCKET NO. CAA-03-2021-0012**

RESPONDENT

Dairy Maid Dairy, LLC
259 E. 7th Street
Frederick, MD 21701

FACILITY

Dairy Maid Dairy, LLC
259 E. 7th Street
Frederick, MD 21701

On January 15, 2020, an authorized representative of the EPA conducted an inspection of the subject facility to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (the Act or CAA). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the regulations, as more fully described in the attached Risk Management Program, Inspection Findings, Violations Sheet.

The parties enter into this Expedited Penalty Action and Consent Agreement (“Consent Agreement”) to settle the civil violations set forth above for a penalty of **\$2,400**. This Consent Agreement commences and concludes this action pursuant to Sections 22.1(b), and 22.18(b)(2), and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. §22.13(b), and 22.18(b)(2), and (3). This Consent Agreement is being entered into by the United States Environmental Protection Agency, Region 3 (EPA), by its duly delegated official, the Director, Enforcement and Compliance Assurance Division, and by Respondent pursuant to Section 113(a)(3) and (d) of the Act, 42 U.S.C. §7413(a)(3) and (d).

The settlement is subject to the following terms and conditions.

The Respondent consents to the assessment of the penalty stated above. The settlement amount was based upon Complainant’s consideration of a number of factors, including, but not limited to, the seriousness of the violations and the other factors provided in CAA Section 113(e)(1), EPA’s Combined Enforcement Policy for CAA Section 112(r) Risk Management Program dated June 20, 2012, and EPA’s Expedited Settlement Policies in Addressing Violations of CAA 112(r) Risk Management Program Regulations dated May 5, 2000, January 5, 2004, and December 20, 2013. The Respondent certifies that it has corrected the violations set forth in the Risk Management Program, Inspection Findings, Violations Sheet. The Respondent also certifies that, since its last Risk Management Plan update required pursuant to 40 C.F.R. §68.190, it has not done either of the following: (a) introduced a new regulated substance at the facility in an amount greater than its threshold quantity; or (b) introduced a new process which uses a regulated substance in an amount greater than its threshold quantity. Further, the Respondent agrees that it shall, within 15 calendar days of receipt of an executed copy of this Consent Agreement, make payment of **\$2,400** in one of the following forms: 1) Electronic Funds Transfer (EFT), 2) Automated Clearinghouse, 3) Pay.Gov, or 4) a cashier’s check or certified check payable to the “US Environmental Protection Agency”, with the Docket Number, located at the top right-hand corner of the Consent Agreement, and “Chemical Accident Prevention Provisions - 112(r)” referenced on the check.

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1) Payment of the penalty amount by EFT to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

2) Payment of the penalty amount by Automated Clearinghouse (ACH) to EPA can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of US Treasury Facility:

5700 Rivertech Court
Riverdale, MD 20737

3) Payments made through Pay.gov: Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- a) You **DO NOT** need a user name and password or account.
- b) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- c) Open the form and follow the on-screen instructions.
- d) Select your type of payment from the "Type of Payment" drop down menu.
- e) Based on your selection, the corresponding line will open and no longer be shaded gray.
- f) Enter the docket number, invoice number or other corresponding information into the field.

4a) Payment of the penalty amount by regular US Postal Service shall be sent via certified mail to:

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

4b) Payment of the penalty amount by overnight mail (FedEx or other non-US Postal Service express mail) shall be sent to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

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Within 24 hours of payment of the EPA Penalty, Respondent shall also send proof of payment to:

Mary Hunt
RMP Coordinator
U.S. EPA, Region III (3ED12)
1650 Arch Street
Philadelphia, PA 19103-2029
hunt.mary@epa.gov

Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

The term "proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with "EPA Docket No. **CAA-03-2021-0012**."

The payment made pursuant to this Consent Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. §162(f), and, therefore, Respondent shall not claim it as a tax deductible expenditure for purposes of federal, state or local law. This Consent Agreement resolves only the civil claims for the specific violations described in the attached Risk Management Program, Inspection Findings, Violations Sheet. Furthermore, EPA reserves the right to commence an action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules. Further, EPA reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement, following its filing with the Regional Hearing Clerk.

Respondent neither admits nor denies the allegations set forth in the attached Risk Management Program, Inspection Findings, Violations Sheet, but admits that jurisdiction has been established for this Penalty Action. Also, upon EPA final approval of the Consent Agreement, Respondent expressly waives its right to contest the allegations, to a hearing under Section 113(d)(2)(A) of the Act, 42 U.S.C. §7413(d)(2)(A), and to appeal this Order under Section 113 (d)(4) of the Act, 42 U.S.C. §7413(d)(4). Moreover, in entering into this Consent Agreement, the Respondent agrees to bear its own costs and attorney's fees related to this Consent Agreement.

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ACCEPT THE PROPOSED PENALTY

I/we consent to the proposed penalty.

DECLINE THE PROPOSED PENALTY

I/we decline the proposed penalty. If you choose to decline this proposed penalty, check the box. You may be subject to formal enforcement action and, in that event, will have an opportunity to a hearing related to any subsequent penalty assessment.

COST OF COMPLIANCE

Respondent certifies that it has expended \$38,000 to correct the violations and to come into compliance.

EFFECTIVE DATE

This Consent Agreement will be effective upon filing.

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind the party whom he or she represents to this Consent Agreement.

Signature L B L Date: 10/7/2020

Name and Title (print) LLOYD B. LUMPP, GENERAL MANAGER

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SIGNATURE BY COMPLAINANT:

**KAREN
MELVIN**

Digitally signed by
KAREN MELVIN
Date: 2020.10.13
14:05:27 -04'00'

Date: 10/13/2020

Karen Melvin, Director
Enforcement and Compliance Assurance Division

FINAL ORDER

Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. §7413(d)(1), and in accordance with the Consolidated Rules of Practice, 40 C.F.R. Part 22, and having relied upon the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based on a consideration of the factors set forth in CAA Section §7413(e)(1) and EPA's Combined Enforcement Policy for CAA Section 112(r) Risk Management Program dated June 20, 2012.

THEREFORE, the foregoing Consent Agreement is hereby approved and incorporated by reference into the Final Order. The Respondent is ORDERED to pay the civil penalty as set forth in the Consent Agreement.

**JOSEPH
LISA**

Digitally signed by
JOSEPH LISA
Date: 2020.10.14
08:23:30 -04'00'

Date: 10/14/2020

Joseph J. Lisa
Regional Judicial Officer

RISK MANAGEMENT PROGRAM, INSPECTION FINDINGS, VIOLATIONS SHEET Program Level 3 Process Checklist	
Facility Name: Dairy Maid Dairy, LLC – Frederick, MD	
Subpart D – Program 3 Prevention Program [40 CFR 68.65 - 68.87]	
1) Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices? [40 C.F.R. §68.65(d)(2)]	No
Subpart E – Emergency Response [40 CFR 68.90 - 68.895]	
2) Has the owner or operator provided the required information for the Community Emergency Response Plan? [40 C.F.R. §68.90(b)(1)]	No
Description: On January 15, 2020, an authorized representative of the EPA conducted an inspection of the Dairy Maid Dairy, LLC facility located at 259 E. 7 th Street in Frederick, MD, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (the Act or CAA). EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act, for failing to (1) document process safety information for relief vent height, ventilation, and pipe labeling, and (2) provide the required information for the Community Emergency Response Plan.	



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Expedited Settlement Agreement

In the Matter of: Dairy Maid Dairy, LLC, 259 E. 7th Street, Frederick, MD 21701
Proceedings under Section 113(d)(1) of the Clean Air Act, 42 U.S.C. § 7413(d)(1).

EPA Docket No.: CAA-03-2021-0012

CERTIFICATE OF SERVICE

I certify that on 10/14/20, the original and one (1) copy of foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Electronic Delivery, Return Receipt Requested**, to:

Mr. Lloyd B. Lumpp, General Manager
Dairy Maid Dairy, LLC
259 E. 7th Street
Frederick, MD 21701
llumpp@dairymaiddairy.com

Copy served via **Electronic Delivery** to:

Mary A. Hunt, RMP Coordinator
Enforcement and Compliance Assurance Division - 3ED12
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
hunt.mary@epa.gov

Dated: 10/14/20

**BEVIN
ESPOSITO**

Digitally signed by BEVIN
ESPOSITO
Date: 2020.10.14 09:41:36
-04'00'

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III