



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 12 2018

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7014 2870 0001 9577 4110
RETURN RECEIPT REQUESTED

Mr. Doug Richard
Safety Manager
DAP Products, Inc.
875 North Third Street
Tipp City, Ohio 45371

Re: Expedited Settlement Agreement
DAP Products, Inc., Tipp City, Ohio
Docket No: RCRA-05-2018-0012

Dear Mr. Richard:

Enclosed please find an original signed fully-executed Expedited Settlement Agreement (ESA) in resolution of the above case. The original was filed on June 12, 2018, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraph 9 of the ESA, and reference all checks with the docket number RCRA-05-2018-0012. Your payment is due within 30 calendar days of the effective date of the ESA.

The ESA is binding on the U.S. Environmental Protection Agency and DAP Products, Inc. EPA will take no further action against the Respondent for the violations cited in the ESA. Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Melissa Storch, Ohio EPA-CDO, melissa.storch@epa.ohio.gov
Mitch Mathews, Ohio EPA-CDO, mitchell.mathews@epa.ohio.gov
James Morris, EPA, Office of Regional Counsel, morris.james@epa.gov
Jon Micah Goeller, EPA, Office of Regional Counsel, goeller.jon@epa.gov

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

DAP PRODUCTS, INC.
EPA ID. No. OHD076787050
Respondent.



Docket No. RCRA-05-2018-0012

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency ("EPA") alleges that DAP Products, Inc., ("Respondent") owns and operates a facility located at 875 North Third Street, Tipp City, Ohio ("Facility") that is subject to Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* ("RCRA"), EPA's regulations implementing RCRA (40 C.F.R. parts 260-279), and the EPA approved and authorized Ohio hazardous waste management program for Large Quantity Generators (chapter 3745-50 through 3745-279, Ohio Admin. Code) because DAP Products, Inc., generates over 1000kg (2205 lbs) of non-acute hazardous waste in a calendar month or over 1kg of acute hazardous waste in a calendar month.
2. Under Ohio Admin. Code §§ 3745-52 and 3745-65, Respondent may avoid the need for a hazardous waste permit by meeting certain permit exemption conditions and requirements including, but not limited to, accumulating hazardous waste for 90 days or less, make visible for inspection the marked accumulation start dates on hazardous waste containers, labeling containers holding hazardous waste with the words "Hazardous Waste", labeling satellite accumulation area (SAA) containers holding hazardous waste with the correct wording, maintaining aisle space to any area of the facility for emergency response, and maintaining a hazardous waste contingency plan and submitting copies to all required authorities in accordance with certain pre-transport, preparedness, prevention, and emergency procedures for large quantity generators.
3. EPA alleges that at the time of its March 16, 2017, inspection, Respondent failed to meet the following permit exemption conditions and requirements set forth at Ohio Admin. Code §§ 3745-52-34(A)-(C) and 3745-65, by not accumulating hazardous waste for 90 days or less, make visible for inspection the marked accumulation start dates on hazardous waste containers, labeling containers holding hazardous waste with the words "Hazardous Waste", labeling satellite accumulation area (SAA) containers holding hazardous waste with the correct wording, maintaining aisle space to any area of the facility for emergency response, and maintaining a hazardous waste contingency plan and submitting copies to all required authorities in accordance with Ohio Admin. Code §§ 3745-52-34(A) and (B), 3745-52-34(A)(2) and (3), 3745-52-34(C)(1), 3745-65-35, 3745-65-52(D) and (E), and 3745-65-53(B). By failing to comply with the conditions for a

permit exemption, above, Respondent became an operator of a hazardous waste storage facility, and was required to obtain an Ohio hazardous waste storage permit. Respondent failed to apply for such a permit and violated the requirements of Ohio Admin. Code §§ 3745-50-45(A); 3745-50-41(A) and (D).

4. EPA alleges that at the time of its March 16, 2017, inspection, Respondent failed to meet the following generator requirements set forth at Ohio Admin. Code § 3745-52, by not making and documenting hazardous waste determinations on any solid waste, and preparing and utilizing a hazardous waste manifest for the shipping of hazardous waste in accordance with Ohio Admin. Code §§ 3745-52-11, and 3745-52-20(A)(1).
5. EPA and Respondent agree that settlement of this matter for a penalty of five thousand dollars (\$5,000) is in the public interest.
6. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 3008 of RCRA and 40 C.F.R. § 22.13(b).
7. In signing this Agreement, Respondent: (1) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (2) neither admits nor denies the factual allegations contained herein; (3) consents to the assessment of this penalty; and (4) waives any right to contest the allegations contained herein.
8. By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) that Respondent will make pay the civil penalty in accordance with this Agreement.
9. Within 30 days after the effective date of this Agreement, Respondent shall pay a civil penalty of \$5,000 for the RCRA violations identified in this Agreement. There are four options for paying this civil penalty:

- a. By sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

- i. For checks sent by regular U.S. Postal Service mail:

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

- ii. For checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties

1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must state the case title (“*In the Matter of: DAP Products, Inc.*”) and the docket number of this Agreement.

- b. Or by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “*In the Matter of: DAP Products, Inc.*” and the docket number of this Agreement.

- c. Or by ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

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

- d. Or by paying online and following the instructions found here:

WWW.PAY.GOV

Use the Search Public Forms option and enter ‘sfo 1.1’ in the search field.
Open form and complete required fields.

10. Respondent must send a notice of payment that states Respondent’s name, complete address, and the case docket number (along with a photocopy of the check, if applicable) to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604

Bryan Gangwisch
U.S. EPA, Region 5
77 West Jackson Boulevard (LR-17J)
Chicago, IL 60604

James Morris
U.S. EPA, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604

11. The civil penalty is not deductible for federal tax purposes.
12. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
13. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.
14. Payment of the civil penalty shall constitute full settlement of the civil claim alleged herein.
15. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
16. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.
17. Each party shall bear its own costs and fees, if any.
18. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

IT IS SO AGREED,

In the Matter of:

DAP Products, Inc.

Docket Number: _____

DAP PRODUCTS, INC.

Name (print): Ken Barr

Title (print): Plant Manager

Signature: 

Date 4/18/18

APPROVED BY EPA:

Michael D. Harris

Michael D. Harris
Acting Division Director
Land and Chemicals Division
U.S. Environmental Protection Agency
Region 5

Date 6/8/2018

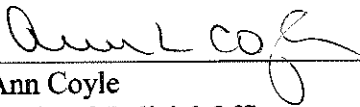
In the Matter of:
DAP Products, Inc.
Docket Number: RCRA-05-2018-0012

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

June 12, 2018
Date



Ann Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

In the matter of: DAP Products, Inc.
Docket Number: RCRA-05-2018-0012

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement and Final Order**, docket number RCRA-05-2018-0012, which was filed on June 12, 2018, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Mr. Doug Richard
Safety Manager
DAP Products, Inc.
875 North Third Street
Tipp City, Ohio 45371

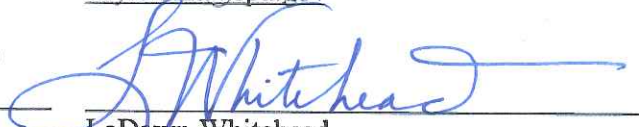
Copy by E-mail to
Attorney for Complainant:

James Morris
morris.james@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: June 12, 2018



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7014 2870 0001 9577 4110