



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

09 DEC -3 PM 3:11

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO.: CAA-07-2010-0004

This ESA is issued to: Brumbaugh, Inc.

At: 614 Birch Lane, Taylor, Missouri 63471

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

The United States Environmental Protection Agency, Region 7 (EPA) and Brumbaugh, Inc., 614 Birch Lane, Taylor, Missouri 63471 (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, and Waste Management Division. The Respondent is Brumbaugh, Inc., 614 Birch Lane, Taylor, Missouri 63471.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Department of Justice jointly determined that in cases where the first alleged date of violation occurred more than one year before initiation of an administrative action and which meets the criteria set forth in EPA's policy entitled "Use of Expedited Settlements in Addressing Violations of the Clean Air Act Chemical Accident Prevention Provision, 40 C.F.R. Part 68," dated January 5, 2004, are appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On May 19, 2009, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 614 Birch Lane, Taylor, Missouri 63471, 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 EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings (RMP Findings), 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 RMP Findings, for the total penalty amount of **\$1,500.00**.

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 contained herein and in the RMP Findings, 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 Clean Air 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 the Respondent has corrected the violations listed in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "United States Treasury") in the amount of **\$1,500.00** 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, Missouri 63197-9000

The Docket Number of this ESA is CAA-07-2010-0004, and must be included on the check.

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

Deanna Smith
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive 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 Region 7 office at the above address in correct form by the 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 RMP Findings.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

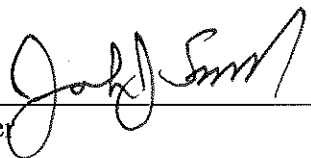
Date: 11-17-09

Name (print): John Guilford

Title (print): Manager
Brumbaugh, Inc.

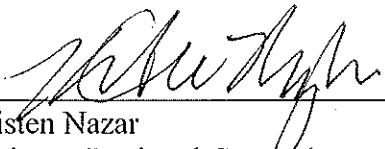
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FOR COMPLAINANT:



for _____
Becky Weber
Director
Air and Waste Management Division
EPA Region 7

Date: 12/3/09



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel
EPA Region 7

Date: 11/25/09

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

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date: Dec. 3, 2009

Risk Management Program Inspection Findings
CAA § 112(r) Violations

Brumbaugh, Inc.
614 Birch Lane
Taylor, Missouri 63471
Docket No. CAA-07-2010-0004

COMPLETE THIS FORM AND RETURN IT WITH THE ESA.

VIOLATIONS

PENALTY AMOUNT

Prevention Program \$ 750.00

Safety Information [§ 68.48(b)]

The owner or operator failed to ensure the process is designed in compliance with recognized and generally accepted good engineering practices. (Note: Barriers to protect process from vehicular damage; the personnel splash tank must be at least 150 gallons; and debris should not be beneath the storage tank.)

How were these addressed:

5-27-09 Concrete barriers have been placed around the tank. ~~Some~~ Concrete barriers were also used to replace the wooden supports under the catwalk which give extra protection for the piping & pump system. 9-17-09

5-27-09 A new 150 gal tank was put in to replace the 110 gal tank.

5-27-09 Debris was removed from beneath the tank.

Prevention Program \$ 750.00

Hazard Review [§ 68.50(d)]

The owner or operator failed to update the hazard review at least once every five years.

How was this addressed:

~~The~~ The Hazard review was updated and documented on 5-27-09

Prevention Program \$ 600.00

Operating Procedures [§ 68.52(b)(6)]

The owner or operator failed to prepare written procedures that address start up after an emergency shut down.

How was this addressed:

The operating procedures & start up procedures after an emergency shut down were found in our RMP Compliance Manual. Unfortunately I did not find them the day we were inspected. They have been in our possession all along. Now kept in new binder.

Prevention Program

\$ 600.00

Operating Procedures [§ 68.52(b)(7)]

The owner or operator failed to prepare written procedures that address consequences of deviation and steps required to correct or avoid deviations.

How was this addressed:

Operating procedures complete and now kept in new binder under "Plant Operating Procedures".

Prevention Program

\$ 300.00

Compliance Audit [§ 68.58(a)]

The owner or operator failed to certify that they have evaluated compliance with the provisions of the prevention program at least every three years to verify that the procedures and practices developed are adequate and are being followed.

How was this addressed:

Prevention ~~program~~ program was reviewed and evaluated 5-27-09 & 5-28-09

Risk Management Plan

\$2,000.00

Required Corrections [§ 68.190(b)(1)]

The owner or operator failed to update the RMP at least once every five years.

How was this addressed:

RMP Was updated and sent to ~~EP&CDX~~ EPA & CDX on August 21-2009.

Total Unadjusted Penalty

\$5,000.00

Calculation of Adjusted Penalty

- 1st Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for number of employees 1-5 and column for >10 times the threshold quantity of 10,000 pounds of anhydrous ammonia as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 0.3. Therefore, the multiplier for Brumbaugh, Inc. = 0.3.
- 2nd Adjusted Penalty = \$5,000.00 (Unadjusted Penalty) X 0.3 (Size-Threshold Multiplier)
Adjusted Penalty = \$1,500.00.
- 3rd An Adjusted Penalty of \$1,500.00 would be assessed to Brumbaugh, Inc., for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

Total Adjusted Penalty

\$1,500.00

The approximate cost to correct the above items: \$ 920⁰⁰

Compliance staff name: John Guilford

Signed: John Guilford Date: 11-17-09

IN THE MATTER OF Brumbaugh, Inc., Respondent
Docket No. CAA-07-2010-0004

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:

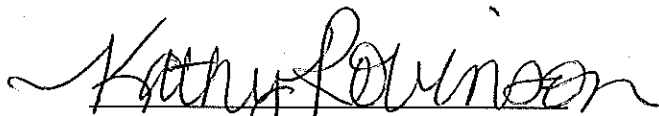
Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

John Guilford, Manager
Brumbaugh, Inc.
614 Birch Lane
Taylor, Missouri 63471

Dated: 12/3/09



Kathy Robinson
Hearing Clerk, Region 7