



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

08 JUL 17 AM 8:06

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2008-0029

**This ESA is issued to:** Plumrose USA

**At:** 2650 23<sup>rd</sup> Avenue, Council Bluffs, Iowa 51501

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

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The United States Environmental Protection Agency, Region 7 (EPA) and Plumrose USA, 2650 23<sup>rd</sup> Avenue, Council Bluffs, Iowa 51501 (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 Plumrose USA, 2650 23<sup>rd</sup> Avenue, Council Bluffs, Iowa 51501.

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 Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

**ALLEGED VIOLATIONS**

On June 26, 2007, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 2650 23<sup>rd</sup> Avenue, Council Bluffs, Iowa 51501, 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, Alleged Violations and Proposed Penalty Sheet (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 **\$2,460**.

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 in 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 **\$2,460** 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-07-2008-0029, 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 5<sup>th</sup> 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 5<sup>th</sup> 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:

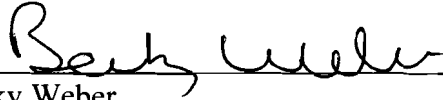
Anthony Wenzel

Date: June 30, 2008

Name (print): Anthony Wenzel

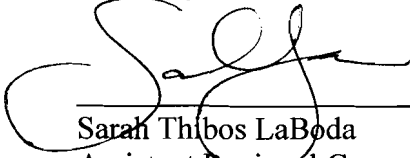
Title (print): Corporate Environmental, Safety, & Health  
Plumrose USA

FOR COMPLAINANT:



Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 7/15/08



Sarah Thibos LaBoda  
Assistant Regional Counsel  
EPA Region 7

Date: 7/14/08

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: July 16, 2008

**Risk Management Program Inspection Findings**

Plumrose USA  
2650 23<sup>rd</sup> Avenue  
Council Bluffs, Iowa 51501

CAA § 112(r) Violations

**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program

Mechanical Integrity [§ 68.73]

The owner or operator failed to establish and implement written procedures to maintain the on-going integrity of process equipment. [§ 69.73(b)]

\$750

*How was this addressed:*

*See attached Letter*

Prevention Program

Management of Change [§ 68.75]

The owner or operator failed to establish and implement written procedures to manage changes to stationary sources that affect a covered process. [§ 69.75(a)]

\$750

*How was this addressed:*

*11 11 11*

**VIOLATIONS**

**PENALTY AMOUNT**

Prevention Program

Pre-Startup Review [§ 68.77]

The owner or operator failed to perform a pre-startup safety review for new stationary sources and for modified stationary sources when the modification was significant enough to require a change in the process safety information. [§ 68.77(a)] The pre-startup review failed to confirm that prior to introduction of regulated substances to a process [§ 68.77(b)]:

- Construction and equipment is in accordance with design specifications [§ 68.77(b)(1)]. \$150
- Safety, operating, maintenance, and emergency procedures are in place and are adequate [§ 68.77(b)(2)]. \$150
- Modified stationary sources met the requirements contained in management of change. [§ 68.77(b)(3)] \$150
- Training of each employee involved in operating a process has been completed. [§ 68.77(b)(4)] \$150

How was this addressed:

See Attached Letter

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Prevention Program

Contractors [§ 68.87]

The contract owner or operator shall document that each contract employee has received and understood the training required by this section. The contract owner or operator shall prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that the employee understood the training. [§ 68.87(c)(3)]

No Penalty Assessed

How was this addressed:

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VIOLATIONS

PENALTY AMOUNT

*See Attached Letter*

Risk Management Plan

Updates [§ 68.190]

The owner or operator failed to review and update the RMP at least once every five years from the date of its initial submission or most recent update. [§ 69.190(b)(1)]

\$2,000

Executive Summary [§ 68.155]

The owner or operator failed to provide in the RMP an executive summary that includes a brief description of the accidental release prevention and emergency response policies. [§ 68.155(a)]

Registration [§ 68.160]

The owner or operator failed to submit the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any). [§68.160(b)(14)]

*How was this addressed:*

*ll ll ll*

Total Unadjusted Penalty

\$4,100

Calculation of Adjusted Penalty

1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during RMP inspections matrix for private industry. The number of employees is 180, greater than 100 column, and 24,000 pounds of anhydrous ammonia, 1-5 times the threshold quantity column, which gives Plumrose USA a multiplier factor of 0.6.

2<sup>nd</sup> Adjusted Penalty = \$4,100 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier) is \$2,460.

**VIOLATIONS**

**PENALTY AMOUNT**

3<sup>rd</sup> An Adjusted Penalty of \$2,460 would be assessed to Plumrose USA for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL ADJUSTED PENALTY \$2,460

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

Compliance staff name: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_



101 Plumrose Drive  
Booneville, MS 38829  
662 720 2609

June 19, 2008

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

From: Anthony Wenzel  
Cooperate Environmental, Safety, and Health Coordinator  
PO Box 970  
Booneville, Ms 38829

Cc: Deanna Smith  
Office of Regional Counsel  
US Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Kathy M Robinson  
Regional Hearing Clerk  
US Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Brian Ketcham  
Environmental Compliance Services

Charlie Lang  
Plant Manager – Plumrose USA – Council Bluffs

Julie Titas  
Environmental Safety and Health Coordinator – Plumrose USA – Council Bluffs

David Inman  
Director Of Maintenance - Plumrose USA

Freddy Mortensen  
Vice President of Manufacturing – Plumrose USA

Re: Expedited Settlement Agreement for Risk management Program Inspection  
Findings Docket No. CAA-07-2008-0029

Dear Madam or Sir:

This letter is in response to the Expedited Settlement Agreement (ESA) **Docket Number CAA-07-2008-0029**. Please see the enclose **Certified Check** in the amount of **\$2,460** in payment of the full penalty amount. Additionally, see the enclosed signed ESA.

In response to the following citations:

**Prevention Program**

**Mechanical Integrity (68.73)**

The Owner or Operator Failed to establish and implement written procedures to maintain the on-going integrity of the process equipment. [69.73(b)]

**How this was addressed:** Plumrose contracts Environmental Compliance Services (ECS), PO Box 356, Sherman, MS 38829, Phone 662.840.5965 who assisted in the development of an RMP program. Additionally, Plumrose has a full-time in house Environmental, Safety, and Health Coordinator to maintain the program. A written mechanical integrity program was developed. Training is provided annually. Additionally, Plumrose utilizes the Antero maintenance tracking software program which issues work orders and documents the completion of work orders when preventative service or maintenance is required on the ammonia system.

**Prevention Program**

**Management Of Change [68.75]**

The owner or operator failed to establish and implement written procedures to manage changes to stationary sources that affect a covered process. [69.75(a)]

**How this was addressed:** Management of Change (MOC) procedures have been developed and incorporated into the written program. Training is conducted annually. Documentation of work performed on the covered process will be provided to ECS who will incorporate any required changes into the RMP program.

**Prevention Program**

**Pre-Startup Review [68.77]**

The owner or operator failed to perform a pre-startup safety review for new stationary sources and for modified stationary sources when the modification was significant enough to require a change in the process information. [68.77(a)]. The pre startup review failed to confirm that prior to introduction of regulated substances to a process [68.77(b)].

**How This Was Addressed:** Management of Change (MOC) procedures have been developed and incorporated into the written program. Training is conducted annually. Additionally, Plumrose may contract additional sources to assist in the provisions of the MOC process. As part of Plumrose's written program, a pre startup safety review is required and documented.

**Prevention Program****Contractors [68.87]**

The contract owner or operator shall document that each contract employee has received and understood the training required by this section. The contract owner or operator shall prepare a document that contains the identity of the contract employee, the date of the training, and the means used to verify that the employee understood the training [68.87(c)(3)].

**How This Was Addressed:** As part of the RMP program, provisions were added to assure that contractors and their employees are trained and/or certified. A questionnaire will be sent to the contractor were the contractor details that level of training provided to their employees. Additionally, Plumrose will require contractors to provide the names of those who will be performing work along with the dates the employees were trained. Additionally, Plumrose will require contractors to describe the means used to verify that the employee understood the training.

**Risk management Plan****Updates [68.190]**

The owner or operator failed to review and update the RMP at least once every five years from the date of the initial submission or most recent date. [69.190 (b)(1)]

**Executive Summary [68.155]**

The owner or operator failed to provide in the RMP an executive summary that includes a brief description of the accidental release release and prevention and emergency response policies.

**Registration [68.160]**

The owner or operator failed to submit the name, the mailing address, and the telephone number of the contractor prepared the RMP if any[68.160 (b)(14)]

**How This Was Addressed:** Plumrose contracts Environmental Compliance Services (ECS), PO Box 356, Sherman, MS 38829, Phone 662.840.5965 who assisted in the development of an RMP program and who assists in the performance of 5 year reviews. ECS also assisted in the submittance of the most recent updates in May of 2008. The submittal included a copy of the executive summary. The name, address, and phone number of the contractor who prepared the RMP is listed above and was listed on the May 2008 submittal.

In closing, Mr. Duane Blobaum is no longer with the company. His replacement is Julie Titus. She may be reached by:

Tele: 712-388-9596

or by mail at:

P.O. Box 436

Council Bluffs, IA (51502-0436)

If I may be of further assistance please contact me by:

Tele: 662-720-2609

or by mail at:

PO Box 970

Booneville, Ms 38829

Sincerely;

Anthony Wenzel

Corporate, Environmental, Safety, and Health

IN THE MATTER OF Plumrose USA, Respondent  
Docket No. CAA-07-2008-0029

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:

Sarah Thibos LaBoda  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Original by Certified Mail Return Receipt to:

Anthony Wenzel  
Corporate Environmental, Safety, & Health  
Plumrose USA  
2650 23<sup>rd</sup> Avenue  
Council Bluffs, Iowa 51501

Dated: 7/17/08



Kathy Robinson  
Hearing Clerk, Region 7