



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

### **EXPEDITED SETTLEMENT AGREEMENT (ESA)**

**DOCKET NO.:** CAA-07-2011-0021

**This ESA is issued to:** Forbo Adhesives, LLC

**At:** 3150 Fiberglass Road, Kansas City, Kansas 66115

**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 Forbo Adhesives, LLC (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 Forbo Adhesives, LLC, 3150 Fiberglass Road, Kansas City, Kansas 66115.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that cases which meet 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 January 25-26, 2011, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 3150 Fiberglass Road, Kansas City, Kansas, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the CAA. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the CAA 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 **\$4,200**.

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 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 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 **\$4,200** 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-07-2011-0021, 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 CAA referenced in the RMP Findings.

In the Matter of Forbo Adhesives, LLC  
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The EPA does not waive any other enforcement action for any other violations of the CAA 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: 8/30/11

Name (print): WILLIAM P. STRAETER

Title (print): PLANT MANAGER  
Forbo Adhesives, LLC

FOR COMPLAINANT:

  
\_\_\_\_\_  
Becky Weber  
Director  
Air and Waste Management Division  
EPA Region 7

Date: 9/8/11

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

Date: 9/11/2011

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

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

Date: Sept. 19, 2011

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

Forbo Adhesives, LLC  
3150 Fiberglass Road  
Kansas City, Kansas 66115  
Docket No. CAA-07-2011-0021

**COMPLETE THIS FORM AND RETURN IT WITH THE ESA.**

**VIOLATIONS**

**PENALTY AMOUNT**

Management [§ 68.15(a)] \$1,200  
The owner or operator failed to develop a management system to oversee the implementation of the risk management program elements.

*How was this addressed:*

A Management System has been established and an Organizational Chart listing specific RMP responsibilities has been developed and implemented. All affected employees have been trained. Note: Organizational Chart is attached.

Prevention Program \$1,200  
Compliance Audits [§ 68.79(a)]  
The owner or operator failed to certify that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed.

*How was this addressed:*

An internal audit was conducted on April 30, 2011 and the Company retained the services of Burns & McDonnell Engineering Company to perform an external RMP and PSM compliance audit, which was conducted on June 16 & 17 against EPA's Risk Management Program (40 CFR Part 68) and the OSHA Process Management Standard (29 CFR 1910.119). All noted findings have been assigned. Future audit findings will be assigned as outlined in our Plant Process Safety Management Program

Contractors [§ 68.87(b)(1)] \$900  
The owner or operator failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.

*How was this addressed:*

The Safety Performance and Safety Programs of all current contractors allowed to perform work in the Process Covered Area have been requested, received and evaluated pursuant to this section. Our revised Contractor Procedure requires Contractors to provide their Safety Performance and Safety Programs before they are allowed to perform work in our Covered Process Area

**VIOLATIONS**

**PENALTY AMOUNT**

Emergency Response [§ 68.90(b)(1)] \$900  
The owner or operator failed to include their emergency response plan in the community emergency response plan developed under 42 U.S.C. 11003.

*How was this addressed:*

The Forbo Adhesives Kansas City Plant's current Emergency Response Plan, which includes designation of our Facility Response Coordinator, along with copies of its Risk Management Program and Spill Containment and Countermeasure Plan was sent by Certified Mail to the following representatives of the Wyandotte Unified Government:

- Assistant Battalion Chief Dusil, Kansas City, Kansas Fire Department
- Director of Emergency Management, Wyandotte County, Kansas LEPC's, Bob Evans
- Kansas Commission on Emergency Planning and Response (SERC)

Total Unadjusted Penalty \$4,200

**Calculation of Adjusted Penalty**

- 1<sup>st</sup> Reference the multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the row for number of employees 10-100 and column for greater than 10 times the threshold quantity of vinyl acetate monomer as listed in 40 C.F.R. Part 68.130 for the amount in a process gives a multiplier factor of 1.0. Therefore, the multiplier for Forbo Adhesives, LLC, is 1.0.
- 2<sup>nd</sup> Adjusted Penalty: \$4,200 (Unadjusted Penalty) X 1.0 (Size-Threshold Multiplier) = \$4,200 (Adjusted Penalty)
- 3<sup>rd</sup> An Adjusted Penalty of \$4,200 would be assessed to Forbo Adhesives, LLC, for violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement.

**Total Adjusted Penalty \$4,200**

**This section must be also be completed and signed by Forbo Adhesives, LLC:**

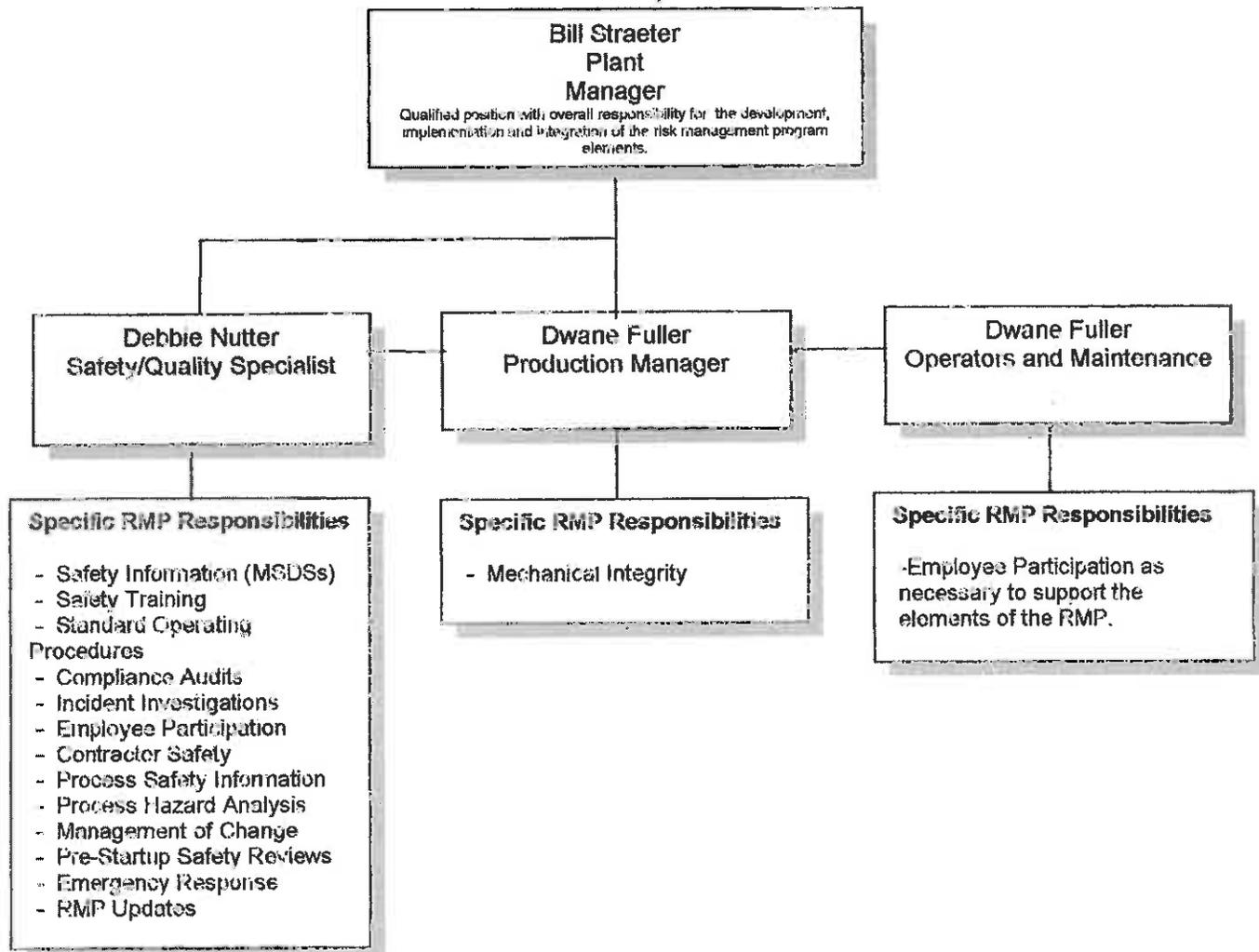
The approximate cost to correct the above items: \$10,650

Compliance staff name: William P. Straeter

Signed:  Date: 8/30/11

### 3.0 RESPONSIBILITY FOR RMP

#### Risk Management System (RMP)



IN THE MATTER OF Forbo Adhesives, LLC, Respondent  
Docket No. CAA-07-2011-0021

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 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

William P. Straeter  
Plant Manager  
Forbo Adhesives, LLC  
3150 Fiberglass Road  
Kansas City, Kansas 66115

Dated: 9/20/11



Kathy Robinson  
Hearing Clerk, Region 7