



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

Enclosure 1
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HEARINGS CLERK
EPA - REGION 10

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2017-0074
This ESA is issued to: Wilbur-Ellis Company
502 Central Ferry Road
Pomeroy, Washington

This Expedited Settlement Agreement (ESA) is being entered into by the Complainant, U.S. Environmental Protection Agency Region 10 (EPA), and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA found that Respondent had violated regulations implementing Section 112(r) of the Act at 40 C.F.R. Part 68 by failing to comply with the regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary, 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 Summary for the total penalty amount of **\$12,100**.

This settlement is subject to the following terms and conditions:

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 Summary, 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 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 Respondent has corrected the violations listed in the enclosed Summaries and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$12,100 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 the ESA must be included on the check. (The docket number is located at the top of this ESA.)

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

Javier Morales, 112(r) Enforcement Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop: OCE-101
Seattle, Washington 98101

Upon Respondent's submission of the signed original ESA, the EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Summary. The EPA does not waive its right to 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 at the above address by 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 the EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

Signature: [Signature] Date: 4/4/17
Name (print): LEORA GOBLE
Title (print): EHS CENTRAL SERVICES LEAD, WILBUR-ELLIS COMPANY, LLC
Cost to correct violation(s): \$12,100

FOR COMPLAINANT:

[Signature] Date: 4-7-17
Edward J. Kowulski
Director
Office of Compliance and Enforcement

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

[Signature] Date: 4-10-17
M. Socorro Rodriguez
Regional Judicial Officer
EPA Region 10

CAA-10-17-0074
Wilbur-Ellis Co.



U.S. ENVIRONMENTAL PROTECTION AGENCY

**Risk Management Program Inspection Findings and Alleged Violations Summary
Region 10**

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME Wilbur-Ellis Company (Central Ferry, WA)		<input checked="" type="checkbox"/> PRIVATE	<input type="checkbox"/> GOVERNMENTAL/MUNICIPAL
FACILITY LOCATION 502 Central Ferry Road, Pomeroy, Washington 99347		# EMPLOYEES <u>10</u>	POPULATION SERVED: _____
MAILING ADDRESS 502 Central Ferry Road, Pomeroy, Washington 99347		INSPECTION START DATE AND TIME: June 9, 2016, 1:10 PM	
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER Mr. Casey Blood, Manager, (509) 549-3518		INSPECTION END DATE AND TIME: June 9, 2016, 3:45 PM	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S) Mr. Casey Blood, Manager, (509) 549-3518		EPA FACILITY ID# 1000 0008 0645	
		INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Bob Hales, US EPA SEE Grantee RMP Inspector, 206-553-4090 Peter Phillips, US EPA SEE Grantee RMP Inspector, 206-553-1757 Terry Garcia, US EPA SEE Grantee RMP Inspector, 206-553-1761	
		INSPECTOR SIGNATURE <i>[Signature]</i>	DATE 2-21-17

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 C.F.R. § 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: <u>06/21/1999</u>	DATE OF LATEST RMP UPDATE: <u>06/02/2014</u>	
1) PROCESS/NAICS CODE: <u>42491</u>	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>	
REGULATED SUBSTANCE: <u>Ammonia (anhydrous)</u>	MAX. QUANTITY IN PROCESS: <u>1,400,000 (lbs.)</u>	
2) PROCESS/NAICS CODE: <u>42491</u>	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input type="checkbox"/>	
REGULATED SUBSTANCE: <u>Ammonia (conc 20% or greater)</u>	MAX. QUANTITY IN PROCESS: <u>530,000 (lbs.)</u>	

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

Three EPA representatives inspected the Wilbur-Ellis Company (Central Ferry, WA) on June 9, 2016. Based upon this inspection the Wilbur-Ellis Company (Central Ferry, WA) is in violation of the following risk management program elements:

1. Process Hazard Analysis: Wilbur-Ellis failed to update and revalidate by a team at least every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process as required by 40 C.F.R. § 68.67(f). Wilbur-Ellis' 2008 PHA was conducted six years after their 2002 PHA.
2. Operating Procedure: Wilbur-Ellis' operating procedures failed to address emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner as required by 40 C.F.R. § 68.69(a)(1)(iv). Wilbur-Ellis was unable to produce the documentation for emergency shutdown procedures for the anhydrous ammonia and aqua ammonia storage processes.
3. Operating Procedure: Wilbur-Ellis' operating procedures failed to address steps required to correct or avoid deviation as required by 40 C.F.R. § 68.69(a)(2)(ii). Wilbur-Ellis was unable to produce the documentation that their operating procedures address steps required to correct or avoid deviation.
4. Operating Procedure: Wilbur-Ellis' operating procedures do not address safety systems and their functions as required by 40 C.F.R. § 68.69(a)(4). Wilbur-Ellis was unable to produce the documentation that their operating procedures that address safety systems and their functions for the anhydrous ammonia and aqua ammonia storage processes.

Certificate of Service

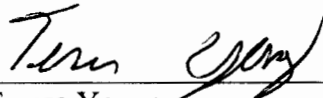
The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Wilbur-Ellis Company, LLC, Docket No.: CAA-10-2017-0074**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator
1200 Sixth Avenue, OCE-101
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Leora Goble
EHSS Central Services Lead
Wilbur-Ellis Company, LLC
16300 Christensen Road, Suite 135
Tukwila, Washington 98188

DATED this 11 day of April, 2017 
Teresa Young
Regional Hearing Clerk
EPA Region 10