



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 27 2013

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Heather Scott  
Advanced Urethane Technologies  
P.O. Box 1040  
Coldwater, Mississippi 38618

Re: Advanced Urethane Technologies  
Consent Agreement and Final Order  
Docket Number EPCRA-04-2013-2013(b)

Dear Ms. Scott:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Emergency Planning and Community Right-to-Know Act of 1986 matter (Docket No. EPCRA-04-2013-2013(b)) involving Advanced Urethane Technologies. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on the date of the filing.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the Environmental Protection Agency. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Mr. Robert Bookman at (404) 562-9169.

Sincerely,

A handwritten signature in blue ink that reads "Caron B. Falconer".

Caron B. Falconer  
Chief  
EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
 )  
Advanced Urethane Technologies )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket Number: EPCRA-04-2013-2013(b)

RECEIVED  
EPA REGION IV  
2013 FEB 27 PM 2:21  
HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Advanced Urethane Technologies.

2. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Respondent is Advanced Urethane Technologies, a corporation doing business in the State of Mississippi.

5. Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

6. Respondent owns and operates a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

7. Respondent's facility is located at 485 Industrial Drive, Coldwater, Mississippi.

### III. EPA's Allegations of Violations

#### Violations of Section 313 of EPCRA

8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30, require the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) for which the corresponding North American Industry Classification System (NAICS) subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

9. As set forth at EPCRA Section 313(f) and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds per calendar year. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds.

10. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3 at its facility.

11. Respondent's facility is classified under SIC code 2899 and the NAICS code 325199.

12. Respondent's facility is classified in a covered SIC code as described at 40 C.F.R. § 372.22 and in a covered NAICS code as described at 40 C.F.R. § 372.23.

13. Toluene 2,4-diisocyanate is a toxic chemical listed under EPCRA Section 313(c) and 40 C.F.R. § 372.65.

14. Respondent's facility processed toluene 2,4-diisocyanate, a toxic chemical listed under EPCRA Section 313(c) and 40 C.F.R. § 372.65, in excess of the 25,000 pound threshold quantity established under EPCRA Section 313(f) and 40 C.F.R. § 372.25, during calendar year 2010.

15. Respondent failed to submit a Form R for Toluene 2,4-diisocyanate to the Administrator of EPA and to the official designated by the Governor of the State of Mississippi by July 1 of the required reporting year.

16. Respondent violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, at its facility for calendar year 2010, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

17. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 for each violation of Section 313 that occurred after January 12, 2009. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by an Administrative Order.

#### Violations of Section 312 of EPCRA

18. Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations found at 40 C.F.R. Part 370, provide that the owner or operator of a facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under that Act, shall submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility, by March 1, 1988, and on or before March 1 annually thereafter, a completed emergency and hazardous chemical inventory form (Tier I or Tier II) as described in 40 C.F.R. Part 370, containing the information required by that part for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal to or greater than 10,000 pounds and containing the information required by that part for extremely hazardous substances (EHS) present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds, whichever is less.

19. At some time during the calendar year of 2010, toluene 2.4-diisocyanate was present at the facility in an amount equal to or greater than 500 pounds.

20. Toluene 2-4-diisocyanate is a "hazardous chemical" as defined under Section 329(5) of EPCRA, 42 U.S.C. § 11049(5) and 40 C.F.R. § 355.61, and is an "extremely hazardous substance" as defined under Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), 40 C.F.R. § 355.61, for which Respondent is required to prepare or have available an MSDS under OSHA at its facility. Sulfuric acid is also listed as an extremely hazardous substance in 40 C.F.R. Part 355, Appendix A.

21. Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for toluene 2.4 diisocyanate to the SERC, the LEPC, and fire department with jurisdiction over the facility for calendar year 2010, by March 1 of the year following the calendar year for which a report was required.

22. Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, at its facility for calendar year 2010 and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

23. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$37,500 for each violation of Section 312 that occurred on or after January 12, 2009. Each day a violation of Section 312 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by Administrative Order.

#### IV. Consent Agreement

24. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

25. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

26. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

27. Respondent agrees to complete the Supplemental Environmental Project (SEP) set forth in this CAFO.

28. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

29. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for a violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.

30. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of EPCRA.

#### V. Final Order

31. Respondent shall pay a civil penalty of NINE THOUSAND TWO HUNDRED NINETY SEVEN DOLLARS (\$9,297), for the violations alleged in Section III. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

32. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to one of the following addresses:

BY MAIL

U.S. Environmental  
Protection Agency  
Fines and Penalties

BY OVERNIGHT

U.S. Bank  
Government Lockbox 979077 US  
EPA Fines & Penalties

Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 418-1028

The check shall reference on its face the name and the Docket Number of the CAFO.

33. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Robert Bookman  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

34. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

#### VI. Supplemental Environmental Project

35. Respondent shall undertake and complete the following Emergency Planning and Preparedness within 90 days of the effective date of this CAFO. Respondent shall expend THIRTY FIVE THOUSAND THREE HUNDRED NINETY THREE DOLLARS (\$35,393) for the following donation to the Town of Coldwater Police and Fire Departments, Coldwater, Mississippi:

- 7 Complete Sets of Firefighting TurnOut Gear  
(i.e., Sperian Vectra Coat and Pant, Majestic Nomex Hood, Bullard  
Helmet w/faceshield, Honeywell rubber boots and Shelby Gloves)
- 1 Rohn 25 100' guyed tower kit
- 1 Motorola MTR3000W VHF Narrowband/Digital Repeater
- 1 VHF Base Antenna w/Coax, Connectors and Grounding
- 3 Motorola XPR6550 Display Portable Battery, antenna, clip and charger

- 3 Motorola Impres Remote Speaker Mics
- 4 Motorola Mototrbo XPR450 Display Mobile Mic, Mntg bracket and power cable
  
- 4 Motorola Mototrbo XPR4550 Display Mobile Microphone, Mounting & Power cables Tower/Tower Equipment Installation

Respondent agrees that the cost of performing the SEP exceeds the minimum required SEP expenditure of \$34,861.

36. Respondent certifies that neither it, nor to the best of its knowledge, the recipient of the Emergency Planning and Preparedness SEP, is a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose financial performance period has not yet expired.

37. Respondent has obtained and presented to EPA a separate written certification from the recipient of the SEP, Coldwater Police and Fire Department, certifying that the Coldwater Police and Fire Department is not a party to any open federal financial assistance transaction as stated in paragraph 36.

38. Respondent agrees that in order to receive credit for the SEP, it must fully and timely complete SEP project in accordance with Paragraph 35. If Respondent does not fully and timely complete the SEP, it shall be required to pay stipulated penalties pursuant to Paragraph 37.

39. If Respondent fails to timely and fully complete any part of the Emergency Planning and Preparedness SEP in Paragraph 35, including failure to spend the minimum amount of THIRTY FIVE THOUSAND THREE HUNDRED NINETY THREE DOLLARS (\$35,393), Respondent shall be liable for a stipulated penalty in the amount of the difference between \$34,861 and the actual amount spent.

40. For purposes of paragraph 39, whether Respondent has fully and timely completed the SEP shall be in the sole discretion of EPA.

41. Respondent agrees that EPA may inspect the facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

42. No later than one hundred twenty (120) calendar days after the effective date of this CAFO, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent

to the EPCRA Enforcement Section, to the attention of Robert Bookman at the address provided above. The Report shall include the following:

- (a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete it; and
- (b) copies of appropriate documentation, including invoice and receipts, showing a total expenditure of THIRTY FIVE THOUSAND THREE HUNDRED NINETY THREE DOLLARS (\$35,393) or greater, was spent on the Emergency Planning and Preparedness SEP described in Paragraph 35.

Upon request, Respondent shall send EPA any additional documentation requested by EPA

43. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

44. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

45. Any public statement, oral or written, by Respondent making any reference to the SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental protection Agency for violation of Sections 312 and 313 of the Emergency Planning and Community Right-to-Know Act.”

46. If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day that the report is late.

47. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth above for the payment of the civil penalty.

48. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.



49. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

50. This CAFO shall be binding upon the Respondent, its successors and assigns.

51. The following individual is authorized to receive service for EPA in this proceeding:

Caron B. Falconer  
U.S. EPA, Region 4  
Air, Pesticides & Toxic Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-8451

52. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

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VI. Effective Date

53. The effective date of this CAFO shall be the date upon which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Advanced Urethane Technologies

By: Heather J. Scott Date: 2/8/2013  
Name: Heather J. Scott (Typed or Printed)  
Title: Office Manager (Typed or Printed)

U.S. Environmental Protection Agency

By: Beverly H. Banister Date: 2-12-13  
Beverly H. Banister  
Director  
Air, Pesticides & Toxics  
Management Division

APPROVED AND SO ORDERED this 21<sup>st</sup> day of February, 2013.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE


I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Advanced Urethane Technologies EPCRA-04-2013-2013(b), on the parties listed below in the manner indicated:

Caron B. Falconer (Via EPA's internal mail)  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303

Robert Caplan (Via EPA's internal mail)  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, Georgia 30303

Ms. Heather Scott (Via Certified Mail - Return Receipt Requested)  
Advanced Urethane Technologies  
P.O. Box 1040  
485 Industrial Drive  
Coldwater, MS 38618

Date: 2-27-13

  
Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511