



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

July 10, 2013

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 6518

Mr. Seth Rice
Legal Counsel
The Lubrizol Corporation
29400 Lakeland Boulevard
Wickliffe, OH 44092

RE: In the Matter of The Lubrizol Corporation
Docket No. CAA-06-2013-3341

Dear Mr. Rice:

Please find enclosed the fully executed Complaint and Consent Agreement and Final Order ("CAFO") in regard to the above-entitled case. The fully executed CAFO was filed with the Regional Hearing Clerk on July 10, 2013 (effective date).

The Lubrizol Corporation will have thirty (30) days from the effective date to pay the agreed upon civil penalty of two hundred twenty-five thousand four hundred dollars (\$225,400). If you have any questions regarding this matter, please feel free to contact me at 214-665-8130. Thank you for your assistance in bringing this matter to a successful conclusion.

Sincerely,

A handwritten signature in black ink that reads "Justin Lannen".

Justin Lannen
Assistant Regional Counsel
EPA, Region 6

Enclosure

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

2013 JUL 10 PM 2:17
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:	§	
	§	
THE LUBRIZOL CORPORATION	§	
	§	
	§	EPA DOCKET NO. CAA-06-2013-3341
PASADENA, TEXAS	§	
	§	
	§	COMPLAINT AND
	§	CONSENT AGREEMENT AND
	§	FINAL ORDER
	§	

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency, Region 6 (“Complainant”) and The Lubrizol Corporation (“Lubrizol” or “Respondent”) in the above referenced proceeding, hereby agree to resolve this matter through the issuance of this Complaint and Consent Agreement and Final Order.

I. PRELIMINARY STATEMENT

1. This proceeding is for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act, as amended (“CAA”), 42 U.S.C. § 7413(d), and for additional terms of settlement as agreed to by Respondent. This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing incorporated herein, and is simultaneously concluded by the issuance of this Consent Agreement and Final Order (“CAFO”) against Respondent pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

2. The Complaint alleges that Lubrizol violated regulations promulgated under the CAA at its chemical manufacturing facility, located at 12801 Bay Area Blvd, in Pasadena, Harris County, Texas (“Facility”).

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. Respondent consents to the issuance of this CAFO hereinafter recited and to the assessment and payment of the stated civil penalty amount and by the method set out in this CAFO.

5. Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and Respondent waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

6. Compliance with all the terms and conditions of this CAFO shall resolve Respondent’s liability for Federal civil penalties for the violations alleged in this CAFO.

7. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this Complaint.

8. Nothing in this CAFO shall be construed to prevent or limit the civil and criminal authorities of the United States Environmental Protection Agency, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

9. Respondent hereby certifies that as of the date of execution of this CAFO, the Facility has corrected the violations alleged herein, and is now, to the best of its knowledge, in compliance with all the requirements of 40 C.F.R. Part 63 and Section 112(b) of the Act.

10. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

11. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns. Nothing in the previous sentence shall adversely affect any right of EPA under applicable law to assert successor or assignee liability against Respondent's successor or assignee, even if not owned in whole or in part, directly or indirectly, by Respondent.

12. The U.S. Department of Justice and EPA have jointly determined that an administrative action is appropriate for the violations alleged herein and have, therefore, waived the limit on the age of the violations, pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

II. STATUTORY AND REGULATORY BACKGROUND

13. Section 112(b)(2) of the CAA, 42 U.S.C. § 7412(b)(2), requires the Administrator of the United States Environmental Protection Agency to publish a list of pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects or adverse environmental effects through ambient concentrations, bioaccumulation, deposition, or otherwise.

14. Pursuant to its authority under Section 112 of the CAA, EPA promulgated 40 C.F.R. Part 63, Subpart FFFF (National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing).

15. According to 40 C.F.R. § 63.1(b), the provisions of Part 63 apply to the owner or operator of any stationary source that:

- (i) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act; and
- (ii) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to Part 63.

16. According to 40 C.F.R. § 63.2435(a), Subpart FFFF applies to miscellaneous organic chemical manufacturing process units (MPCU) that are located at, or are a part of, a major source of hazardous air pollutants (HAP) emissions.

17. Section 63.2435(b) of Subpart FFFF states that a MPCU includes equipment and components necessary to operate a MPCU, including valves, connectors, agitators, and open-ended lines.

18. Section 63.2435(b) of Subpart FFFF further provides that a MPCU is regulated by Subpart FFFF if (1) the MPCU produces organic chemical(s) classified using the 1987 version of the Standard Industrial Classification (SIC) code 286 or the 1997 version of North American Industry Classification System (NAICS) code 325, and (2) the MPCU processes, uses, or generates any of the organic HAP listed in Section 112(b) of the CAA.

19. Section 63.2480(a) of Subpart FFFF requires affected facilities to comply with each requirement in Table 6 to Subpart FFFF relating to equipment leaks.

20. Table 6 to Subpart FFFF requires an affected facility to comply with Subpart UU, Subpart H, or 40 C.F.R. Part 65, Subpart F for equipment leaks.

21. According to 40 C.F.R. § 63.1019, Subpart UU applies to all equipment and components, including valves, connectors, agitators, and open-ended lines within a source, subject to the provisions of a specific subpart in 40 C.F.R. Part 63.

22. Section 63.1024(a) requires that a first attempt at repair of a leaking component shall be made no later than 5 calendar days after the leak is detected.

23. Section 63.1024(a) further requires that the owner or operator of a leaking component shall repair each leak not later than 15 calendar days after the leak is detected.

24. Section 63.1033(b)(1) requires the owner or operator to equip each open-ended valve or line with a cap, blind flange, plug, or second valve.

25. Section 63.1023(b)(1) requires that the monitoring of equipment leaks at a regulated source subject to Subpart UU shall comply with Method 21 of 40 C.F.R. Part 60, Appendix A.

26. Section 63.1039(b) requires periodic reporting of equipment leak information, including percentage of components found to be leaking.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

27. Respondent is a corporation doing business in the State of Texas and is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

28. At all relevant times, Respondent owned and operated the Facility, a chemical manufacturing plant located at 12801 Bay Area Blvd, Pasadena, Harris County, Texas.

29. The Facility is a major source of hazardous air pollutant emissions as defined in Section 112(a) of the CAA. Respondent owns or operates miscellaneous organic chemical manufacturing process units (MCPUs) that are part of the Facility.

30. Respondent's Facility is subject to Subpart FFFF because (a) the MCPU at the Facility include equipment and components used to manufacture organic chemicals classified using the 1987 version of SIC code 2869 and the 1997 version of NAICS codes 325110 and 325199, and (b) the MPCU at the Facility process, use, or generate organic HAPs listed in Section 112(b) of the CAA, including methanol, toluene, phenol, and xylene.

31. Pursuant to Table 6 of Subpart FFFF, Respondent has elected to control equipment leaks at its MPCU in accordance with 40 C.F.R. Part 63, Subpart UU, National Emission Standards for Equipment Leaks—Control Level 2 Standards.

32. Respondent's Facility includes valves, connectors, agitators, and open-ended lines associated with the processing/production of regulated materials that are subject to the requirements of Subpart UU.

33. Respondent has implemented a Leak Detection and Repair (LDAR) program through which Respondent utilizes Method 21 to monitor for emission leaks at the Facility.

IV. VIOLATIONS

Violation 1

34. Between July 2008 and August 2009, Respondent discovered emission leaks from nineteen (19) valves and seven (7) connectors at the Facility's MCPU; however, Respondent did not make a first attempt at repair of those leaking components no later than 5 calendar days after the leaks were detected.

35. By failing to make a first attempt at repair of the nineteen (19) leaking valves and seven (7) leaking connectors no later than 5 days after the leaks were detected, Respondent violated 40 C.F.R. § 63.1024(a) for each valve and each connector that were not monitored.

Violation 2

36. Between July 2008 and August 2009, Respondent discovered emission leaks from sixteen (16) valves and six (6) connectors at the Facility's MCPU. Respondent did not, however, repair those leaking components no later than 15 calendar days after the leaks were detected.

37. By failing to repair sixteen (16) leaking valves and six (6) leaking connectors no later than 15 calendar days after the leaks were detected, Respondent violated 40 C.F.R. § 63.1024(a) for each valve and each connector that were not repaired.

Violation 3

38. During an on-site inspection conducted in January 2013, EPA inspectors discovered four (4) open-ended lines that were not equipped with a cap, blind flange, plug, or a second valve.

39. By failing to equip four (4) open-ended lines with a cap, blind flange, plug, or a second valve, Respondent violated 40 C.F.R. § 63.1033(b)(1) for each open-ended line.

Violation 4

40. During an on-site inspection conducted in January 2013, EPA inspectors monitored valves in the Facility's four process units for emission leaks to compare to Respondent's reported emission leak rates.

41. Based on the number of valves monitored and the number of leaking valves identified, EPA inspectors discovered valve leak rates at Process Units 1 and 3 that were significantly higher than the Facility's reported leak rates. The significant difference between EPA's calculated leak rates and the Facility's reported leak rates indicates that the Respondent was not correctly utilizing Method 21 to monitor for emission leaks at Process Units 1 and 3.

42. By failing to correctly implement Method 21 to monitor for leaks, Respondent violated 40 C.F.R. § 63.1023(b)(1).

V. CIVIL PENALTY AND TERMS OF SETTLEMENT

43. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars (\$25,000)¹ per day for each violation of the CAA. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, specific facts and equities, litigation risks, and other factors as justice may require, INCLUDING Respondent's agreement to perform the additional terms of settlement set forth below, it is ORDERED that Respondent be assessed a civil penalty in the amount of two hundred twenty-five thousand four hundred dollars (\$225,400).

44. Within thirty (30) days of Respondent's receipt of this fully executed CAFO, Respondent shall pay two hundred twenty-five thousand four hundred dollars (\$225,400) by cashier's or certified check made payable to "Treasurer, United States of America, EPA - Region

¹ The Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 provides for increases in the statutory penalty provisions (\$25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 (CAA Penalty Policy). It provides for up to \$25,000 per day of violation for violations occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring after January 30, 1997 through March 15, 2004; up to \$32,500 per day for each such violation occurring after March 15, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring after January 12, 2009.

6". Payment shall be remitted in one of five (5) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; wire transfer; Automated Clearinghouse; or On Line Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact – Jesse White (301) 887-6548

For On-line Payment:

WWW.PAY.GOV
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE
NOTE:

Docket Number CAA-06-2013-3341 shall be clearly typed on the check to ensure proper credit. The check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and transmittal letter to the following:

Carlos Flores (6EN-AA)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Region 6 Hearing Clerk
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

45. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

46. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

47. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

48. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including, but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such

person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

49. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of the Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

50. This CAFO shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in this CAFO shall be construed to prohibit or prevent the federal, state, or local government from developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

51. This document is a "Final Order" as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of "prior such violations".

VI. RETENTION OF ENFORCEMENT RIGHTS

52. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of any other Federal laws, regulations, statutes, or permitting programs not the subject of this action.

53. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

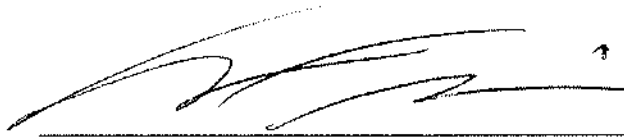
VII. COSTS

54. Each party shall bear its own costs and attorneys fees.

IT IS SO AGREED:

FOR THE RESPONDENT:

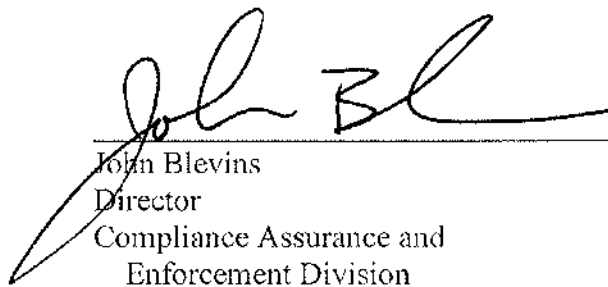
Date: July 1, 2013



Anthony Shick
General Manager, Texas Plants
The Lubrizol Corporation

FOR THE COMPLAINANT:

Date: 7.9.13




John Blevins
Director
Compliance Assurance and
Enforcement Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as they relate to the assessment of civil penalties. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 7-10-13


Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

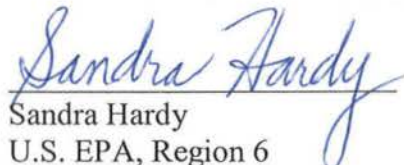
I hereby certify that on the 10th day of July, 2013, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order ("Complaint and CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7007 3020 0002 5102 7747

Anthony Shick
General Manager, Texas Plants
The Lubrizol Corporation
41 Tidal Road
P.O. Box 158
Deer Park, Texas 77536

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7007 0710 0002 1385 2375

CT Corporation System
Registered Agent (Amber Carrouth)
The Lubrizol Corporation
350 North St. Paul Street, Suite 2900
Dallas, Texas 75201-4234


Sandra Hardy
U.S. EPA, Region 6
Dallas, Texas