



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR - 9 2013

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chad Tyrakowski
The Mennel Milling Company
Plant Manager
301 South Mill Street
Dowagiac, Michigan 49047


RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-13-ESA-004
Docket No. **CAA-05-2013-0018**

Dear Mr. Tyrakowski:

Enclosed please find a copy of the fully executed Risk Management Program Expedited Settlement Agreement (ESA). The ESA is binding on the U.S. Environmental Protection Agency and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other questions about the program. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590



DOCKET NO: RMP-13-ESA-004

This ESA is issued to: The Mennel Milling Company
at: 301 South Mill Street, Dowagiac, Michigan 49047
for violations of Section 112(r)(7) of the Clean Air Act.

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and The Mennel Milling Company ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On May 31, 2012 an authorized EPA representative conducted a compliance inspection of The Mennel Milling Company located at 301 South Mill Street, Dowagiac, Michigan 49047 ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the May 31, 2012 inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.36(a) Respondent failed to review and update the offsite consequence analyses at least once every five years.
2. 40 C.F.R. § 68.67(5) Respondent failed to conduct a process hazard analysis that addressed stationary source siting.
3. 40 C.F.R. § 68.67(6) Respondent failed to conduct a process hazard analysis that addressed human factors.
4. 40 C.F.R. § 68.69(c) Respondent failed to certify annually that operating procedures are current and accurate.

5. 40 C.F.R. § 68.73(b) Respondent failed to establish written operating procedures to maintain the ongoing integrity of process equipment that includes the crane and the chlorine sensor inspections and calibrations.
6. 40 C.F.R. § 68.73(d)(3) Respondent failed to perform inspections and tests on the crane at a frequency consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.
7. 40 C.F.R. § 68.79(d) Respondent failed to determine and document an appropriate response to each of the findings of the compliance audit and document the deficiencies have been corrected.

SETTLEMENT

In consideration of Respondent's full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$3,780.00**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$3,780.00** in payment of the full penalty amount to the following address:

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

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-13-ESA-004.)

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

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.

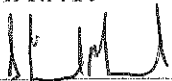
If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

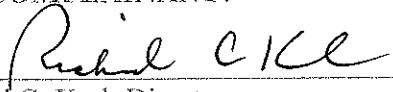
Each Party to this action shall bear its own costs and fees, if any.

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

FOR RESPONDENT:

Signature:  Date: 3/23/13
Name (print): D. Ford Howell
Title (print): Asst. to the President
Respondent

FOR COMPLAINANT:

 Date: 3-29-13
Richard C. Karl, Director
Superfund Division

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Date: 4-2-13

Susan Hedman
Regional Administrator

RECEIVED

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CAA-05-2013-0018

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Consent Agreement and Final Order (CAFO) to be served upon the persons designated below, on the date below, by causing said copies to be delivered by depositing in the U.S. Mail, First Class, and certified-return receipt requested, postage prepaid, at Chicago, Illinois, in envelope addressed to:

Frederick J. Dindoffer
BODMAN PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226

Avtar S. Mavi
Renosol Seating, LLC
505 Hoover Street
Farwell, Michigan 48622

Barbara Boroughf
Renosol Seating, LLC
505 Hoover Street
Farwell, Michigan 48622



I have further caused the original CAFO and this Certificate of Service, and one copy, to be filed with the Regional Hearing Clerk, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, on the date below.

Dated this 9th day of April, 2013.


Jarrah P. Sanders
U.S. Environmental Protection Agency
Region 5

Save this Copy
for your records.



21228886

March 05, 2013

CASHIER'S CHECK - Customer Receipt

Pay to the
Order of: TREASURER, UNITED STATES OF AMERICA***

\$*****3,780.00

Amount: THREE THOUSAND SEVEN HUNDRED EIGHTY 00/100 US DOLLARS

Memo: RMP - 13 - ESA - 004
Purchased by: LORI KITCHEN
Transaction #: 558772982
Cost Center: 0966
Method of Purchase: Transfer

NON-NEGOTIABLE

The purchase of a Surety Bond may be required before any Cashier's Check on this bank will be replaced or refunded in the event it is lost, misplaced, or stolen.

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT.

CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.



FIFTH THIRD BANK

CASHIER'S CHECK

March 05, 2013

21228886

Pay to the
Order of: TREASURER, UNITED STATES OF AMERICA***

\$*****3,780.00

Amount: THREE THOUSAND SEVEN HUNDRED EIGHTY 00/100 US DOLLARS

Drawn on: Fifth Third Bank, Kentucky, Inc
Lexington, KY

Transaction Number: 558772982
Cost Center: 0966

Memo: RMP - 13 - ESA - 004
Purchased by: LORI KITCHEN

The purchase of a Surety Bond may be required before any Cashier's Check on this bank will be replaced or refunded in the event it is lost, misplaced, or stolen.

[Signature]
Authorized Signature

⑈ 21228886 ⑈ ⑆ 042101190 ⑆ 0082510054 ⑈

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK.

HOLD AT AN ANGLE TO SEE THE MARK WHEN CHECKING THE ENDORSEMENTS.

CAA-05-2013-0018



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