



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

APR - 3 2013

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

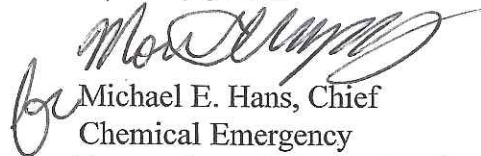
Re: **Renosol Seating, LLC, Farwell Michigan**
Consent Agreement and Final Order
Docket No. **CAA-05-2013-0015**

Dear Mr. Dindoffer:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. U.S. EPA has filed the original CAFO with the Regional Hearing Clerk on April 3, 2013. Please inform your client of their obligation to pay a civil penalty in the amount of \$119,000 in the manner prescribed in paragraphs 33-39 and please note that your client must reference their check with the docket number.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181 if you have any questions regarding the enclosed documents. Please direct any legal questions to Robert Guenther, Regional Counsel, at (312) 886-0566. Thank you for your assistance in resolving this matter.

Sincerely yours,


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

Enclosure

cc. Robert Guenther, ORC (C-14J)
Avtar S. Mavi (Renosol Seating, LLC)
Barbara Boroughf (Renosol Seating, LLC)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
LEAR CORPORATION EEDS)
AND INTERIORS)
(d/b/a RENOSOL SEATING),)
FARWELL, MICHIGAN,)
)
EPA ID: 100000006646)
)
RESPONDENT.)
_____)

DOCKET NO.: CAA-05-2013-0015

PROCEEDING TO ASSESS
A CIVIL PENALTY UNDER
SECTION 113(d) OF THE
CLEAN AIR ACT,
42 U.S.C. § 7413(d)



REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

1. This is an administrative action commenced and concluded under section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the Consolidated Rules) as codified at 40 C.F.R. part 22, for violations of section 112(r) of the CAA, 42 U.S.C. § 7412(r).
2. Complainant is, by lawful delegation, the Director of the Superfund Division, U.S. EPA Region 5.
3. Respondent is Lear Corporation EEDS and Interiors (d/b/a Renosol Seating), a Delaware corporation, and is thus a "person" according to section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. According to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be

commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).

5. The parties agree 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.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

JURISDICTION AND WAIVER OF RIGHT TO HEARING

7. Respondent stipulates that U.S. EPA has jurisdiction over the subject matter of this CAFO and waives any jurisdictional objections it may have. Respondent neither admits nor denies Complainant's factual allegations set forth in paragraphs 21 through 32 of this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

STATUTORY AND REGULATORY BACKGROUND

9. Section 112(r)(7)(B) of the CAA, 42 U.S.C. § 7412(r)(7)(B), requires the Administrator of U.S EPA to issue regulations regarding the prevention and detection of accidental releases of designated chemicals. That section further requires the Administrator to promulgate regulations requiring the owners or operators of stationary sources where a regulated substance is present above a threshold quantity to prepare a risk management plan to prevent or minimize risks of accidental releases of those designated substances.

10. Pursuant to section 112(r)(7)(A) and (B) of the CAA, 42 U.S.C. § 112(r)(7)(A) and (B), the Administrator promulgated the Chemical Accident Pollution Prevention rule on January 31, 1994. This rule is codified at 40 C.F.R. part 68 and has been modified from time to time since.

11. The Chemical Accident Pollution Prevention rule, at 40 C.F.R. § 68.12(c), requires the owner or operator of a stationary source with a process subject to Program 2, as defined at 40 C.F.R. § 68.10(c), to develop and implement a management system as required by 40 C.F.R. § 68.15, to conduct a hazard assessment pursuant to 40 C.F.R. §§ 68.20 to 68.42, to implement the prevention requirements set forth in either 40 C.F.R. §§ 68.48 to 68.60 or in §§ 68.65 to 68.87, and to develop and implement an emergency response program as provided in 40 C.F.R. §§ 68.90 to 68.95. These requirements are collectively known as the “Risk Management Program.”

12. Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), defines “owner or operator” as “... any person who owns, leases, operates, controls or supervises a stationary source.”

13. The Chemical Accident Pollution Prevention rule, at 40 C.F.R. § 68.3, defines “stationary source” as: “... any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. ...”

14. The Chemical Accident Pollution Prevention rule, at 40 C.F.R. § 68.10(c), defines a Program 2 process as one which does not meet the requirements of a Program 1

process found at 40 C.F.R. § 68.10(b) and does not meet the requirements of a Program 3 process found at 40 C.F.R. § 68.10(d).

15. The Chemical Accident Pollution Prevention rule, at 40 C.F.R. § 68.3, defines “process” as “ ... any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of those activities. ... ”

16. The Chemical Accident Pollution Prevention rule, at 40 C.F.R. § 68.3, defines “regulated substance” as “ ... any substance listed pursuant to section 112(r)(3) of the Clean Air Act ... in [40 C.F.R.] § 68.130.”

17. The Chemical Accident Pollution Prevention rule, in Tables 1 and 2 referenced in 40 C.F.R. § 68.130, lists toluene 2,4 diisocyanate (CAS # 584-84-9) and toluene 2,6 diisocyanate (CAS # 91-08-7) as regulated substances with threshold quantities of 10,000 pounds each.

18. The Chemical Accident Pollution Prevention rule, at 40 C.F.R. § 68.3, defines “threshold quantity” as “ ... the quantity specified for regulated substances pursuant to section 112(r)(5) of the Clean Air Act ... , listed in [40 C.F.R.] § 68.130 and determined to be present at a stationary source as specified in [40 C.F.R.] § 68.115. ... ”

19. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), provides that after the effective date of any regulation or requirement imposed under section 112(r)(7), it is unlawful for any person to operate any stationary source in violation of such requirement.

20. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), provides that the Administrator may issue an administrative order against any person assessing

civil administrative penalties of up to \$25,000 per day of violation whenever the Administrator finds that person has violated a requirement of subchapter I of the CAA, including a requirement of any rule promulgated under that subchapter.

21. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. part 19, increased the statutory maximum penalty under section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), to \$32,500 per day of violation to a maximum of \$270,000 for violations occurring after March 15, 2004, through January 12, 2009, and to \$37,500 per day of violation to a maximum of \$295,000 for violations occurring after January 12, 2009.

22. Section 113(d)(1), 42 U.S.C. § 7413(d)(1), further limits the Administrator's authority to pursue administrative penalties to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving an older period of violation is appropriate for an administrative penalty action.

FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

23. At all times relevant to this Complaint, Respondent owned, operated, controlled and supervised a facility located at 505 Hoover Street, Farwell, Michigan (the facility), which includes buildings, structures, equipment, installations, which belong to the same industrial group, are located on one or more contiguous properties and which are under the control of Respondent. Respondent's facility manufactures motor vehicle parts and accessories.

24. Respondent does not have nor has applied for a Title V permit under the terms of the CAA.

25. Respondent's facility in Farwell is a "stationary source" as that term is defined in 40 C.F.R. § 68.3.

26. Respondent is an "owner or operator" as that term is used in 40 C.F.R. § 68.3.

27. Respondent's facility had toluene 2,4 diisocyanate and toluene 2,6 diisocyanate in quantities exceeding 10,000 pounds during calendar years 1999 through 2010. Respondent thus maintained toxic substances in quantities exceeding the threshold quantities under the Chemical Accident Pollution Prevention rule.

28. At and prior to the time of inspection by U.S. EPA, Respondent's processes subjected it to the Program 2 requirements because the distance to a public receptor, as defined at 40 C.F.R. § 68.30, was less than the distance to the flammable or toxic endpoint for a worst-case release assessment under 40 C.F.R. § 68.25, and because the process was not subject to the process safety management standard at 29 U.S.C. § 1910.119 and at the time the process did not meet one of the NAICS codes listed under 40 C.F.R. § 68.10(d)(1).

29. The Administrator of U.S EPA and the Attorney General of the United States, each through their respective delegates, have determined that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

30. On September 14, 2010, Respondent's Risk Management Program for the facility, prepared pursuant to 40 C.F.R. § 68.12(c), failed to include numerous elements

required by those provisions. A table listing the deficiencies in Respondent's Risk Management Program at the facility is attached as Table A.

31. Respondent's failure to develop and implement a complete Risk Management Program at the facility is a violation of the requirements of 40 C.F.R. § 68.12(c).

32. Respondent's violation of 40 C.F.R. § 68.12(c) constitutes the unlawful operation of a stationary source subject to a regulation or requirement promulgated under section 112(r) of the CAA, 42 U.S.C. § 7412(r), and authorizes the Administrator to seek penalties pursuant to section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B).

CIVIL PENALTY

33. Based on an analysis of the factors as specified in section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation in quickly resolving this matter and other factors as justice may require, Complainant has determined that an appropriate civil penalty to settle this action is \$119,000.

34. Within 30 days after the effective date of this CAFO, Respondent must pay the \$119,000 civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

35. The check must note the case caption and the docket number of this CAFO.

36. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Monika Chrzaszcz (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Robert S. Guenther (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

37. This civil penalty is not deductible for federal tax purposes.

38. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States' enforcement expenses for the collection action. Respondent acknowledges that the validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

39. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In

addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. According to section 113(d) of the CAA, 42 U.S.C. § 7413(d)(5), this nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

GENERAL PROVISIONS

40. This CAFO resolves Respondent's liability, and any liability of Respondent's parents, subsidiaries, affiliates, related corporations and entities, insurers, reinsurers, indemnitors, stockholders, officers, directors, employees, agents, servants, successors and assigns for only federal civil penalties for the violations and facts alleged in this CAFO.

41. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

42. This CAFO does not affect Respondent's responsibility to comply with the CAA or other applicable federal, state and local laws or regulations.

43. This CAFO is a "final order" for purposes of U.S. EPA's enforcement response policy for section 112(r) of the CAA.

44. The terms of this CAFO bind Respondent, Respondent's parents, subsidiaries, affiliates, related corporations and entities, insurers, reinsurers, indemnitors, stockholders, officers, directors, employees, agents, servants, successors and assigns.

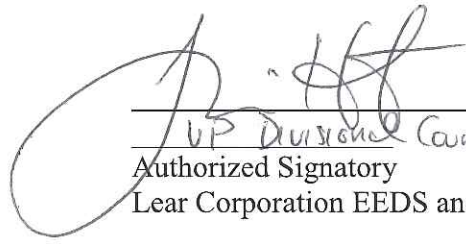
45. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

46. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

47. This CAFO constitutes the entire agreement between the parties.

Lear Corporation EEDS and Interiors (d/b/a Renosol Seating), Respondent

3.14.13
Date


VP Divisional Counsel + Assistant Secretary
Authorized Signatory
Lear Corporation EEDS and Interiors

U.S. Environmental Protection Agency, Complainant

3/27/13
Date


Richard C. Karl, Director
Superfund Division


In the Matter of:
Lear Corporation EEDS and Interiors (d/b/a Renosol Seating)
Farwell, Michigan
Docket No: CAA-05-2013-0015

FINAL ORDER

This Consent Agreement and Final Order, as agreed to by the parties, will become effective immediately upon filing with the Regional Hearing Clerk. **IT IS SO ORDERED.**

Date: 3-28-13

By: _____


Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5



Renosol Seating, Farwell, Michigan

Table A

Citation	Description
Management	
68.15(a)	Failure to develop a management system to oversee the implementation of the risk management program elements
68.15(c)	Failure to document other persons responsible for implementing individual requirements of the risk management program and defined lines of authority through an organization chart or similar document
Hazard Assessment	
68.39(e)	Failure to maintain a record on the offsite consequence analyses that included the data used to estimate population and environmental receptors potentially affected
Safety Information	
68.48(a)(1)	Failure to compile and maintain up-to-date safety information that included maximum intended inventory of equipment in which the regulated substances are stored or processed
68.48(a)(3)	Failure to compile and maintain up-to-date safety information that included safe upper and lower temperatures, pressures, flows, and compositions
68.48(a)(4)	Failure to compile and maintain up-to-date safety information that included equipment specifications
68.48(a)(5)	Failure to compile and maintain up-to-date safety information that included codes and standards used to design, build, and operate the covered process
68.48(b)	Failure to ensure that the process is designed in compliance with recognized and generally accepted food engineering practices
Hazard Review	
68.50(a)	Failure to conduct a review of the hazards associated with the regulated substances, processes, and procedures
Operating Procedures	
68.52(b)(4)	Failure to prepare written operating procedures that address emergency shutdown and operations
68.52(b)(6)	Failure to prepare written operating procedures that address startup following a normal or emergency shutdown or a major change that required a hazard review
68.52(b)(7)	Failure to prepare written operating procedures that address consequences of deviations and steps required to correct or avoid deviations
68.52(b)(8)	Failure to prepare written operating procedures that address equipment inspections
Training	
68.54(a)	Failure to certify that each employee presently operating a process, and each employee newly assigned to a covered process has been trained or tested competent in the operating procedures that pertain to their duties
68.54(b)	Failure to provide refresher training at least every three years, or more often if necessary, to each employee operating a process, to ensure that the employee understand and adheres to the current operating procedures of the process
68.54(d)	Failure to certify that each employee was trained in any updated or new procedures prior to startup of a process after a major change
Maintenance	
68.56(a)	Failure to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment
68.56(b)	Failure to train or cause to be trained each employee, involved in maintaining the on-going mechanical integrity of the process, in the hazards of the process, in how to avoid or correct unsafe conditions, and in the procedures applicable to the employee's job tasks

CAA-05-2013-0015

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


RECEIVED

APR - 3 2013

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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 3 day of April, 2013.


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