



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

AUG - 4 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard J. Angell
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111

Re: Dyno Nobel, Inc., Biwabik, Minnesota
Consent Agreement and Final Order
Docket No. **EPCRA-05-2015-0022**

Dear Mr. Angell:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on August 4, 2015.

Please have your client pay the EPCRA civil penalty in the amount of \$42,614 in the manner prescribed in paragraphs 137 and 138, and reference your payment with the docket number **EPCRA-05-2015-0022**.

The payment is due on September 3, 2015.

Please feel free to contact Ruth McNamara at mcnamara.ruth@epa.gov or by telephone at (312) 353-3193 if you have any questions regarding the enclosed documents. Please direct any legal questions to Tamara Carnovsky, Associate Regional Counsel, at carnovsky.tamara@epa.gov or by telephone at (312) 886-2250. Thank you for your assistance in resolving this matter.

Sincerely,

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

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:

Docket No. EPCRA-05-2015-0022

Dyno Nobel Inc.)
Biwabik, Minnesota)

) Proceeding to Assess a Civil Penalty Under Section
) 325(c)(1) of the Emergency Planning and
) Community Right-to-Know Act of 1986

Respondent.)
)
)

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c)(1), 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 (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. The Respondent is Dyno Nobel Inc., a corporation doing business in the State of Minnesota.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action in its entirety 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 assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in 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 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to prepare and submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter on March 1, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA 42 U.S.C. § 11022(d), covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts

equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assists state and local committees in planning for emergencies and makes information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

11. Federal regulations at 29 C.F.R. § 1910.1200(b)(1) require all employers to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

12. Under Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), with certain exceptions, the term “hazardous chemical” has the meaning given such term by 29 C.F.R. § 1910.1200(c).

13. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 for each EPCRA Section 312 violation. 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 to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

15. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

16. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 5392 Vermillion Trail, Biwabik, Minnesota (facility).

17. At all times relevant to this CAFO, Respondent was an employer at the facility.
18. Respondent's facility consists of buildings, equipment, structures and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.
19. Respondent's facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).
20. Ammonium Nitrate Liquor (83%) CAS #6484-52-2 is classified as a physical and health hazard.
21. Ammonium Nitrate Liquor (83%) CAS #6484-52-2 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).
22. Ammonium Nitrate Liquor (83%) CAS #6484-52-2 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.
23. During at least one period of time during the calendar year 2012, Ammonium Nitrate Liquor (83%) CAS #6484-52-2 was present at the facility in an amount equal to or greater than the minimum threshold level.
24. During at least one period of time during the calendar year 2013, Ammonium Nitrate Liquor (83%) CAS #6484-52-2 was present at the facility in an amount equal to or greater than the minimum threshold level.
25. OSHA requires Respondent to prepare, or have available, an MSDS for Ammonium Nitrate Liquor (83%) CAS #6484-52-2.
26. Prilled Ammonium Nitrate CAS #6484-52-2 is classified as a physical and health hazard.

27. Prilled Ammonium Nitrate CAS #6484-52-2 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

28. Prilled Ammonium Nitrate CAS #6484-52-2 a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

29. During at least one period of time during the calendar year 2012, Prilled Ammonium Nitrate CAS #6484-52-2 was present at the facility in an amount equal to or greater than the minimum threshold level.

30. During at least one period of time during the calendar year 2013, Prilled Ammonium Nitrate CAS #6484-52-2 was present at the facility in an amount equal to or greater than the minimum threshold level.

31. OSHA requires Respondent to prepare, or have available, an MSDS for Prilled Ammonium Nitrate CAS #6484-52-2.

32. Dyno Gold Bulk Emulsion, as identified in MSDS #1052, (Bulk Emulsion #1052) is classified as a physical and health hazard.

33. Bulk Emulsion #1052 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

34. Bulk Emulsion #1052 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

35. During at least one period of time during the calendar year 2012, Bulk Emulsion #1052 was present at the facility in an amount equal to or greater than the minimum threshold level.

36. During at least one period of time during the calendar year 2013, Bulk Emulsion #1052 was present at the facility in an amount equal to or greater than the minimum threshold level.

37. OSHA requires Respondent to prepare, or have available, an MSDS for Bulk Emulsion #1052.

38. Dyno Gold Bulk Emulsion Explosive as identified in MSDS #1062, (Bulk Emulsion Explosive #1062) is classified as a physical and health hazard.

39. Bulk Emulsion Explosive #1062 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

40. Bulk Emulsion Explosive #1062 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

41. During at least one period of time during the calendar year 2012, Bulk Emulsion Explosive #1062 was present at the facility in an amount equal to or greater than the minimum threshold level.

42. During at least one period of time during the calendar year 2013, Bulk Emulsion Explosive #1062 was present at the facility in an amount equal to or greater than the minimum threshold level.

43. OSHA requires Respondent to prepare, or have available, an MSDS for Bulk Emulsion Explosive #1062.

44. Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6 is classified as a health hazard.

45. Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

46. Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

47. During at least one period of time during the calendar year 2012, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

48. During at least one period of time during the calendar year 2013, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

49. OSHA requires Respondent to prepare, or have available, an MSDS for Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6.

50. Titan Fuel Phase (SJF035) Emulsifying Fuel Mixture, as identified in MSDS #1305, (Emulsifying Fuel Mixture #1305) is classified as a physical and health hazard.

51. Emulsifying Fuel Mixture #1305 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

52. Emulsifying Fuel Mixture #1305 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

53. During at least one period of time during the calendar year 2012, Emulsifying Fuel Mixture #1305 was present at the facility in an amount equal to or greater than the minimum threshold level.

54. During at least one period of time during the calendar year 2013, Emulsifying Fuel Mixture #1305 was present at the facility in an amount equal to or greater than the minimum threshold level.

55. OSHA requires Respondent to prepare, or have available, an MSDS for Emulsifying Fuel Mixture #1305.

56. Diesel No. 2-D CAS #68476-34-6 is classified as a health hazard.

57. Diesel No. 2-D CAS #68476-34-6 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

58. Diesel No. 2-D CAS #68476-34-6 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

59. During at least one period of time during the calendar year 2012, Diesel No. 2-D CAS #68476-34-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

60. During at least one period of time during the calendar year 2013, Diesel No. 2-D CAS #68476-34-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

61. OSHA requires Respondent to prepare, or have available, an MSDS for Diesel No. 2-D CAS #68476-34-6.

62. Sodium Nitrate HQ Free Flowing CAS #7631-99-4 is classified as a health hazard.

63. Sodium Nitrate HQ Free Flowing CAS #7631-99-4 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

64. Sodium Nitrate HQ Free Flowing CAS #7631-99-4 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

65. During at least one period of time during the calendar year 2012, Sodium Nitrate HQ Free Flowing CAS #68476-34-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

66. During at least one period of time during the calendar year 2013, Sodium Nitrate HQ Free Flowing CAS #68476-34-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

67. OSHA requires Respondent to prepare, or have available, an MSDS for Sodium Nitrate HQ Free Flowing CAS #68476-34-6.

68. Dyno Cord Sensitive Boosters, as identified in MSDS #1108 (Cast Boosters #1108) are a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

69. Cast Boosters #1108 have a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

70. During at least one period of time during the calendar year 2012, Cast Boosters #1108 were present at the facility in an amount equal to or greater than the minimum threshold level.

71. During at least one period of time during the calendar year 2013, Cast Boosters #1108 were present at the facility in an amount equal to or greater than the minimum threshold level.

72. OSHA requires Respondent to prepare, or have available, an MSDS for Cast Boosters #1108.

73. Ethylene Glycol CAS #107-21-1 is classified as a physical and health hazard.

74. Ethylene Glycol CAS #107-21-1 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

75. Ethylene Glycol CAS #107-21-1 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

76. During at least one period of time during the calendar year 2012, Ethylene Glycol CAS #107-21-1 was present at the facility in an amount equal to or greater than the minimum threshold level.

77. During at least one period of time during the calendar year 2013, Ethylene Glycol CAS #107-21-1 was present at the facility in an amount equal to or greater than the minimum threshold level.

78. OSHA requires Respondent to prepare, or have available, an MSDS for Ethylene Glycol CAS #107-21-1.

79. ANFO, Bulk or Packaged, as identified in MSDS #1009, (ANFO, Bulk or Packaged #1109) is classified as a physical and health hazard.

80. ANFO, Bulk or Packaged, #1109 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

81. ANFO, Bulk or Packaged, #1109 has minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

82. During at least one period of time during the calendar year 2012, ANFO, Bulk or Packaged, #1109 was present at the facility in an amount equal to or greater than the minimum threshold level.

83. During at least one period of time during the calendar year 2013, ANFO, Bulk or Packaged, #1109 was present at the facility in an amount equal to or greater than the minimum threshold level.

84. OSHA requires Respondent to prepare, or have available, an MSDS for ANFO, Bulk or Packaged, #1109.

85. Q Cell Inorganic Microspheres CAS #50815-87-7 are classified as a health hazard.

86. Q Cell Inorganic Microspheres CAS #50815-87-7 are a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

87. Q Cell Inorganic Microspheres CAS #50815-87-7 have a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

88. During at least one period of time during the calendar year 2012, Q Cell Inorganic Microspheres CAS #50815-87-7 was present at the facility in an amount equal to or greater than the minimum threshold level.

89. During at least one period of time during the calendar year 2013, Q Cell Inorganic Microspheres CAS #50815-87-7 was present at the facility in an amount equal to or greater than the minimum threshold level.

90. OSHA requires Respondent to prepare, or have available, an MSDS for Q Cell Inorganic Microspheres CAS #50815-87-7.

91. Liquefied Petroleum Gas or Propane CAS #74-98-6 is classified as a physical and health hazard.

92. Liquefied Petroleum Gas or Propane CAS #74-98-6 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

93. Liquefied Petroleum Gas or Propane CAS #74-98-6 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

94. During at least one period of time during the calendar year 2012, Liquefied Petroleum Gas or Propane CAS #74-98-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

95. During at least one period of time during the calendar year 2013, Liquefied Petroleum Gas or Propane CAS #74-98-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

96. OSHA requires Respondent to prepare, or have available, an MSDS for Liquefied Petroleum Gas or Propane CAS #74-98-6.

97. Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2 is classified as a health hazard.

98. Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2 is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

99. Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

100. During at least one period of time during the calendar year 2012, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2 was present at the facility in an amount equal to or greater than the minimum threshold level.

101. During at least one period of time during the calendar year 2013, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2 was present at the facility in an amount equal to or greater than the minimum threshold level.

102. OSHA requires Respondent to prepare, or have available, an MSDS for Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2.

103. Urea CAS #57-13-6 is classified as a health hazard.

104. Urea CAS #57-13-6 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

105. Urea CAS #57-13-6 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

106. During at least one period of time during the calendar year 2012, Urea CAS #57-13-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

107. During at least one period of time during the calendar year 2013, Urea CAS #57-13-6 was present at the facility in an amount equal to or greater than the minimum threshold level.

108. OSHA requires Respondent to prepare, or have available, an MSDS for Urea CAS #57-13-6.

109. Titan RU Uphole Fuel Phase (SJF058) Emulsifying Fuel Mixture, as identified in MSDS #1307, (Emulsifying Fuel Mixture #1307) is classified as a health hazard.

110. Emulsifying Fuel Mixture #1307 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

111. Emulsifying Fuel Mixture #1307 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

112. During at least one period of time during the calendar years 2012, Emulsifying Fuel Mixture #1307 was present at the facility in an amount equal to or greater than the minimum threshold level.

113. During at least one period of time during the calendar years 2013, Emulsifying Fuel Mixture #1307 was present at the facility in an amount equal to or greater than the minimum threshold level.

114. OSHA requires Respondent to prepare, or have available, an MSDS for Emulsifying Fuel Mixture #1307.

115. Blastex Packaged Emulsion Explosive, as identified in MSDS #1063, (Blastex #1063) is classified as a physical and health hazard.

116. Blastex #1063 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

117. Blastex #1063 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

118. During at least one period of time during the calendar year 2012, Blastex #1063 was present at the facility in an amount equal to or greater than the minimum threshold level.

119. OSHA requires Respondent to prepare, or have available, an MSDS for Blastex #1063.

120. Nalco CC 8550 (sulfuric acid) CAS #7664-93-9 is classified as a health hazard.

121. Sulfuric acid CAS #7664-93-9 is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

122. Sulfuric acid CAS #7664-93-9 has a minimum threshold level of 500 pounds, as provided in 40 C.F.R. Part 370.

123. During at least one period of time during the calendar year 2012, sulfuric acid CAS #7664-93-9 was present at the facility in an amount equal to or greater than the minimum threshold level.

124. During at least one period of time during the calendar year 2013, sulfuric acid CAS #7664-93-9 was present at the facility in an amount equal to or greater than the minimum threshold level.

125. OSHA requires Respondent to prepare, or have available, an MSDS for sulfuric acid CAS #7664-93-9.

126. Section 312 of EPCRA required Respondent to submit to the SERC and fire department with jurisdiction over the facility on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, Blastex #1063, and sulfuric acid CAS #7664-93-9 for calendar year 2012.

127. Section 312 of EPCRA required Respondent to submit to the SERC and fire department with jurisdiction over the facility on or before March 1, 2014, a completed emergency and hazardous chemical inventory form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk

Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, and sulfuric acid CAS #7664-93-9 for calendar year 2013.

128. At all times relevant to this CAFO, the Division of Homeland Security and Emergency Management was the SERC for Minnesota under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

129. At all times relevant to this CAFO, the Biwabik Township Volunteer Fire Department was the fire department with jurisdiction over the facility.

130. Respondent submitted to the SERC and fire department a revised Emergency and Hazardous Chemical Inventory Form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, Blastex #1063, and sulfuric acid CAS #7664-93-9 on September 17, 2014, for calendar year 2012.

131. Each day Respondent failed to submit to the SERC and fire department a completed Emergency and Hazardous Chemical Inventory Form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, Blastex #1063, and sulfuric acid CAS #7664-93-9 by March 1, 2013, for calendar year 2012, constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

132. Respondent submitted to the SERC a revised Emergency and Hazardous Chemical Inventory Form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, and sulfuric acid CAS #7664-93-9 on September 17, 2014, for calendar year 2013.

133. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including Ammonium Nitrate Liquor (83%) CAS #6484-

52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, and sulfuric acid CAS #7664-93-9 by March 1, 2014, for calendar year 2013, constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

134. Respondent submitted to the fire department a revised Emergency and Hazardous Chemical Inventory Form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS #64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, and sulfuric acid CAS #7664-93-9 on September 17, 2014, for calendar year 2013.

135. Each day Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including Ammonium Nitrate Liquor (83%) CAS #6484-52-2, Prilled Ammonium Nitrate CAS #6484-52-2, Bulk Emulsion #1052, Bulk Emulsion Explosive #1062, Severely Hydrotreated Light Naphthenic Distillate CAS

#64742-53-6, Emulsifying Fuel Mixture #1305, Diesel No. 2-D CAS #68476-34-6, Sodium Nitrate HQ Free Flowing CAS #7631-99-4, Cast Boosters #1108, Ethylene Glycol CAS #107-21-1, ANFO, Bulk or Packaged, #1009, Q Cell Inorganic Microspheres CAS #50815-87-7, Liquefied Petroleum Gas or Propane CAS #74-98-6, Marathon No. 2 Ultra Low Sulfur Diesel 15 ppm Sulfur Mix CAS #68476-30-2, Urea CAS #57-13-6, Emulsifying Fuel Mixture #1307, and sulfuric acid CAS #7664-93-9 by March 1, 2014, for calendar year 2013, constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Civil Penalty

136. Complainant has determined that an appropriate civil penalty to settle this action is \$42,614. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations and, with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

137. Within 30 days after the effective date of this CAFO, Respondent must pay a \$42,614 civil penalty for the EPCRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

[if sent by regular mail]

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

[if sent by express mail or courier]

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

The check must note the following: In the Matter of: “Dyno Nobel Inc., Biwabik, Minnesota, Respondent” and the Docket Number of this CAFO.

138. A transmittal letter, stating Respondent’s name, the case title 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

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

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

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

140. 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, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

141. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

142. This CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

144. Respondent certifies that, based on information and belief after reasonable inquiry, with the exception of the matters alleged herein, it is complying with the requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, that formed the basis for the violations alleged above.

145. This CAFO does not affect Respondent's responsibility to comply with EPCRA and CERCLA and other applicable federal, state and local laws and regulations.

146. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

147. The terms of this CAFO bind Respondent and its successors and assigns.

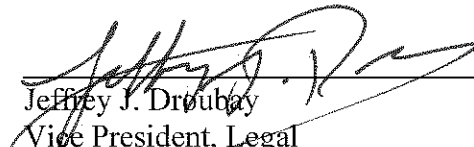
148. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

149. Each party agrees to bear its own costs and attorney's fees in this action.

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


Dyno Nobel Inc., Respondent

7/17/15
Date

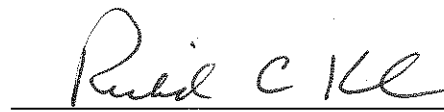

Jeffrey J. Droubay
Vice President, Legal
Dyno Nobel Inc.

U.S. Environmental Protection Agency, Complainant

07/28/2015
Date


M. Cecilia Moore, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

7-30-15
Date

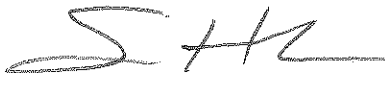

Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Dyno Nobel, Inc., Biwabik, Minnesota
Docket No. EPCRA-05-2015-0022

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3 August 2015
Date



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

In the Matter of: Dyno Nobel, Biwabik, Minnesota
Docket No. EPCRA-05-2015-0022

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on August 4, 2015, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Richard J. Angell
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111

Copy by e-mail to
Attorney for Complainant:

Tamara Carnovsky
carnovsky.tamara@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

August 4, 2015 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
(312) 886-3713

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4932