



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 29 2011

REPLY TO THE ATTENTION OF

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Michael L. Evelhoch  
CPA, VP and Controller  
Harsco Minerals International  
5000 Ritter Road  
Suite 205  
Mechanicsburg, Pennsylvania 17055

Dear Mr. Evelhoch:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Harsco Minerals International, Clean Air Act Docket No. CAA-05-2011-0060. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on September 30, 2011.

Pursuant to paragraph 37 of the CAFO, Harsco must pay the civil penalty within 30 days of October 31, 2011. Your [check][electronic funds transfer] must display the case name Harsco Minerals International; Warren, Ohio, the docket number, CAA-05-2011-0060, and the billing document number, 2751103A059.

Please direct any questions regarding this case to Timothy Thurlow, Associate Regional Counsel, (312) 886-6623.

Sincerely,

William L. MacDowell  
Air Enforcement and Compliance Assurance Branch,  
MN/OH

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) Docket No. CAA-05-2011-0060  
)  
Harsco Corporation ) Proceeding to Assess a Civil Penalty  
Warren, Ohio, ) Under Section 113(d) of the Clean Air Act  
) 42 U.S.C. § 7413(d)  
Respondent. )  
\_\_\_\_\_ )

RECEIVED  
SEP 30 2011

Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 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. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Harsco Corporation (Harsco), a corporation doing business in Ohio.
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 pursuant to the terms of this CAFO 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 the final order accompanying the consent agreement.

**Statutory and Regulatory Background**

9. EPA approved Ohio Administrative Code (OAC) Rules 3745-31-02 and 3745-31-03 as part of the federally enforceable state implementation plan (SIP) for Ohio. 68 Fed. Reg. 2909 (2003).

10. OAC Rules 3745-31-02 and 3745-31-03 require, among other things:

- a. 3745-31-02(A)(1): “Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants . . . without first obtaining a permit to install from the director . . . .”
- b. 3745-31-02(A)(2): “The owner or operator of any air contaminant source may apply for a permit to install to voluntarily limit the allowable emissions from the air contaminant source or limit the type of air contaminants authorized to be emitted from the air contaminant source. The director shall act upon such application in accordance with the requirements of rule 3745-31-05 of the Administrative Code . . . .”

- c. 3745-31-03(A)(3): “The transferee of any permit to install shall assume personally the responsibilities of the original permit holder-transferor . . . .”
11. EPA approved Ohio Administrative Code (OAC) Rule 3745-31-05 as part of the federally enforceable state implementation plan (SIP) for Ohio. 68 Fed. Reg. 2909 (2003).
  12. OAC Rule 3745-31-05 requires, among other things:
    - a. 3745-31-05(A): “The director shall issue a permit to install . . . if he determines that the installation or modification and operation of the air contaminant source . . . will:
      - (1) Not prevent or interfere with the attainment or maintenance of applicable . . . ambient air quality standards; and
      - (2) Not result in a violation of any applicable laws . . .
      - (3) Employ the best available technology . . . .”
    - b. 3745-31-05(D): “The director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality. Special terms and conditions . . . shall be federally enforceable . . . .”
    - c. 3745-31-05(D)(3): “The transferee of any permit to operate shall, personally, assume the responsibilities of the original permit holder-transferor . . . .”
  13. EPA approved Ohio Administrative Code (OAC) Rule 3745-35-02 as part of the federally enforceable state implementation plan (SIP) for Ohio. 47 Fed. Reg. 25145 (1982).
  14. OAC Rule 3745-35-02 requires, among other things:

- a. 3745-35-02(A): “Except as otherwise provided in paragraph (H) of this rule... no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Ohio Environmental Protection Agency . . . .”
- b. 3745-35-02(D)(3): “The transferee of any permit to operate shall, personally, assume the responsibilities of the original permit holder-transferor . . . .”
- c. 3745-35-02(D)(6): “The director may include such other terms and conditions as are necessary to ensure compliance with applicable air pollution control law or to gather information about ambient air quality, emission levels, or other aspects of the source operations.”

15. 40 C.F.R. 52.23 states: “Failure to comply with any provisions of this part or with any approved regulatory provision of a State implementation plan, or with any permit condition . . . issued pursuant to approved or promulgated regulations . . . shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act . . . .”

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. Section 113(d)(1) limits the Administrator’s authority 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 the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

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

**Factual Allegations and Alleged Violations**

19. Harsco Minerals International, a division of Harsco Corporation, owns and operates a slag reclaim facility located at 101 Tidewater Road, Northeast, in Warren, Ohio (the facility).

20. Harsco purchased the facility in April 2007.

21. The facility is a stationary source as defined in the Clean Air Act and the Ohio SIP.

22. The Ohio Environmental Protection Agency (OEPA) issued permit to install (PTI) 02-0988 for the facility to Ogelbay Norton Engineered Products on May 14, 1997. PTI 02-0988 transferred to Harsco.

23. PTI 02-0988 includes the process identified as P003.

24. PTI 02-0988 includes certain permit terms and conditions which apply to the process identified as P003.

25. PTI 02-0988, Additional Special Terms and Conditions (A) states:  
“Particulate emissions from P002 and P003 shall be controlled by fabric filter baghouses.”

26. PTI 02-0988, Additional Special Terms and Conditions (C)(2), Operational Restrictions states: “The collection efficiency of the air pollution capture hoods on emissions

unit P003 shall be sufficient to minimize or eliminate visible particulate emissions of fugitive dust at all points of capture. This shall include: two-deck screener, all belt conveyor transfer points, bucket elevator transfer points, storage silos and weigh bins. The permittee shall maintain all hoods and enclosures in good operating condition. Additional capture hooding or enclosures shall be installed if required by Ohio EPA.”

27. PTI 02-0988, Additional Special Terms and Conditions (C)(3), Operational Restrictions states: “The air pollution control system on emissions unit P003 shall be operated with sufficient volumetric flow rate to minimize or eliminate visible particulate emissions at the point(s) of capture to the extent possible with good engineering design.”

28. PTI 02-0988, Additional Special Terms and Conditions (E)(2), Operational Restrictions states: “Compliance with the visible emission requirements of this permit shall be determined by U.S. EPA Reference Method 22 (Emissions Unit F009) and Reference Method 9 (Emissions Units F010, P002, and P003).”

29. The OEPA issued a Permit to Operate (PTO) for P003, among others, to Performix Technologies, Ltd. on January 15, 2008. The PTO for P003 transferred to Harsco.

30. The PT0 for P003 includes a section titled, General Terms and Conditions, Scheduled Maintenance/Malfunction Reporting (I.6.) which states: “[A]ny scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of this emissions unit(s) that is (are) served by such control system(s).”

31. EPA issued a Notice of Violation (NOV) to Harsco on December 30, 2010 which stated that Harsco failed to comply with certain terms and conditions in PTI 02-0988 and general terms and conditions in the PTO for P003.

32. Specifically, Harsco failed to:
- a. Control PM emissions from P003 with a fabric filter baghouse as required by PTI 02-0988, Additional Special Terms and Conditions (A).
  - b. Operate the capture hoods on emissions unit P003 such that they sufficiently minimized or eliminated visible emissions of fugitive dust at all points of capture as required by PTI 02-0988, Additional Special Terms and Conditions (C)(2).
  - c. Maintain all hoods and enclosures associated with P003 in good operating conditions as required by PTI 02-088, Additional Special Terms and Conditions (C)(2).
  - d. Operate the air pollution control system on P003 with sufficient volumetric flow rate to minimize or eliminate visible particulate emissions at the point(s) of capture to the extent possible with good engineering design as required by PTI 02-0988, Additional Special Terms and Conditions (C)(3).
  - e. Evaluate compliance with the visible emission requirements of PTI 02-0988 and the PTO for P003 using U.S. EPA Reference Method 22 and/or Reference Method 9, as required by PTI 02-0988, Additional Special Terms and Conditions (E)(2), and PTO for P003, Special Terms and Conditions E.1.
  - f. Shutdown P003 during scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system associated with the respective emissions units as required by PTO for P003, general Terms and conditions, Scheduled Maintenance/Malfunction Reporting, I.6.

33. Harsco's failure to comply with the various terms and conditions of its PTI and PTO is a violation of PTI 02-0988, the PTO for P003 and the Ohio SIP.



34. Harsco completed installation of gasketed enclosure panels on the weigh-belt conveyors for silos T-9 through T-12 and an enclosed drum connection at the end of the reversing conveyor number 13 in P003 by February 10, 2011. Harsco also completed installation of permanent enclosure panels on the incline conveyor number 14. The installation was completed by February 10, 2011. The weigh-belts, end of the reversing conveyor belt, and the incline belt were sources of visible emissions observed during an April 2010 inspection.

35. Harsco completed installation of a replacement baghouse for P003 in December 2010.

#### **Civil Penalty**

36. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Harsco's cooperation, and Harsco's willingness to do a supplemental environmental project for lead abatement, Complainant has determined that an appropriate civil penalty to settle this action is \$32,470.

37. Within 30 days after the effective date of this CAFO, Respondent must pay a \$32,470 civil penalty by cashier's check, certified check, electronic funds transfer, automated clearinghouse, or online payment.

**For checks sent by regular U.S. Postal Service mail:** send a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

**For checks sent by express mail:** send a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must include the case name, docket number of this CAFO, and the billing document number.

**For electronic funds transfer:** make the electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, include the case name, the docket number of this CAFO, and the billing document number.

**For Automated Clearinghouse (ACH) also known as REX or remittance express:** make the ACH electronic funds transfer, payable to "Treasurer, United States of America," and send to:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, include the case name, the docket number of this CAFO, and the billing document number.

**For on-line payment:** make an on-line payment by going to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

38. Respondent must send a notice of payment that states the case name, the docket number of this CAFO, and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Timothy Thurlow at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Timothy Thurlow (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

40. If Respondent does not pay timely the civil penalty or fails to implement the entire supplemental environmental project as outlined below, 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 under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

41. 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 overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a

\$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 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.

### **Supplemental Environment Project**

42. Respondent must complete a supplemental environmental project (SEP) designed to protect families by abating lead-based paint hazards in a number of residential properties and day care facilities in or about the Warren, Ohio area, as further described herein. This SEP may include, but is not limited to, window replacement, the removal of lead-based paint and dust, the permanent enclosure or encapsulation of lead-based paint, and the replacement of lead-based painted surfaces or fixtures.

43. Respondent must complete the SEP as follows: the Respondent will contract with a local not-for-profit organization (“NFP”) experienced in lead abatement work to promptly undertake and complete such work in or about the Warren, Ohio area. Respondent has tentatively selected Trumbull Neighborhood Partnership, which is acceptable to EPA. The foregoing statement shall not be construed to prohibit Respondent from selecting a different NFP. Respondent shall require the NFP to conduct the SEP according to all applicable federal and state work practice and notification requirements including, but not limited to, the United States Department of Housing and Urban Development’s Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and the State of Ohio, unless otherwise specifically provided in this CAFO. Respondent must fully fund an escrow account to pay for the lead abatement SEP not later than 90 days after the effective date of this CAFO. Harsco

must spend at least \$121,760 (One hundred twenty-one thousand, seven hundred sixty dollars) for the lead abatement SEP.

44. SEP Certifications:

- a. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement or as injunctive relief as of the date it signs this CAFO.
- b. Respondent certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.
- c. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP.
- d. Respondent certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired. The parties agree that the NFP certifying to the lack of another federal financial assistance transaction shall satisfy Respondent's obligation for reasonable inquiry under this subparagraph.

45. Respondent must submit a SEP completion report to EPA no later than 30 days after Respondent receives a report from the NFP that the SEP is complete. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any problems implementing the SEP and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible). Include the number of properties from which lead was removed under the SEP.

46. Respondent must submit the SEP Completion Report by first class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 38, above.

47. In the SEP Completion Report, Respondent must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

In certifying the report, the signatory may rely on documentation, assertions or other information provided by the NFP.

48. Following receipt of the SEP completion report described in paragraph 45, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and that EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 50.

49. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 50, below.

50. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 43, Respondent must pay a penalty equal to 125 percent of the difference between the amount it spent on the SEP and the amount set forth in paragraph 43.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 43, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 43, Respondent must pay a penalty of \$12,500 or 10 percent of the difference between the amount it spent on the SEP and the amount set forth in paragraph 43, whichever is greater.
- d. If Respondent did not timely submit the SEP completion report required by paragraph 45, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 <sup>st</sup> through 14 <sup>th</sup> day
\$150	15 <sup>th</sup> through 30 <sup>th</sup> day
\$250	31 <sup>st</sup> day and beyond

51. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

52. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 37, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

53. If Respondent makes any public statement referring to the SEP, it must include the following language: "Harsco Minerals International, a Division of Harsco Corporation, undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Harsco for alleged violations of the Clean Air Act." Respondent's contractual agreement with the NFP shall not be considered such a public statement.

54. Force Majeure: If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- a. Respondent must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.
- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.



- c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.
- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

55. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

#### **General Provisions**

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

57. Respondent has demonstrated, and hereby certifies, that it is now in compliance with the requirements that formed the basis of the allegations in paragraphs 19 through 35 of this CAFO. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

58. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 56, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

59. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

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

61. 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.

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


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

64. The requirements of this CAFO shall be considered satisfied when the civil penalty and any stipulated penalties have been paid and EPA has approved the completion of the SEP and the SEP report.

65. EPA agrees to provide a copy of this CAFO to Respondent immediately upon filing with the Regional Hearing Clerk as provided in the Certificate of Service attached hereto.

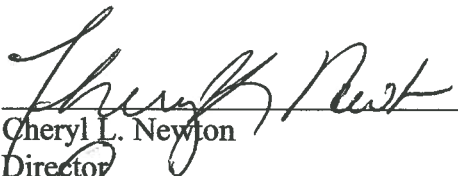
**Harsco Corporation, Respondent**

September 27<sup>th</sup>, 2011  
Date

  
\_\_\_\_\_  
Daniel S. McAtee President  
Harsco Minerals International

**United States Environmental Protection Agency, Complainant**

9/29/11  
Date

  
\_\_\_\_\_  
Cheryl L. Newton  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Harsco Corporation**  
**Docket No. CAA-05-2011-0060**

**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.

9-29-11

Date



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



**Consent Agreement and Final Order  
In the Matter of: Harsco Corporation  
Docket No. CAA-05-2011-0060**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2011-0060 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Michael L. Evelhoch  
CPA, VP and Controller  
Harsco Minerals International  
5000 Ritter Road  
Suite 205  
Mechanicsburg, Pennsylvania 17055



I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Marcy Toney  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard / Mail Code C-14J  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Ed Fasko, APC Manager  
Ohio Environmental  
Protection Agency  
North District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Robert Hodanbosi , Chief  
Division of Air Pollution  
Control  
Ohio Environmental  
Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43138

On the 30<sup>th</sup> day of September 2011.

CAA-05-2011-0060

Betty Williams  
Betty Williams  
Administrative Program Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 70091680000076128034

RECEIVED  
SEP 30 2011  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY,