



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

OCT 03 2012

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

REPLY TO THE ATTENTION OF:

Mr. Emil Rosul  
Advanced Fluids, Inc.  
18127 Roseland Road  
Cleveland, Ohio 44112

Re: Advanced Fluids, Inc. Consent Agreement and Final Order,  
Docket No. **EPCRA-05-2013-0003**

Dear Mr. Rosul:

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 October 3, 2012.

Please pay the EPCRA civil penalty in the amount of \$40,000 in the manner prescribed in paragraphs 152 and 153, and reference your check with the billing document number **2751344E003** and the docket number **EPCRA-05-2013-0003**.

Your payments are due on November 2, 2012.

Please feel free to contact Ginger Jager at (312) 886-0767 if you have any questions regarding the enclosed documents. Please direct any legal questions to Erik H. Olson, Assistant Regional Counsel, at (312) 886-6829. Thank you for your assistance in resolving this matter.

Sincerely,

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

Enclosure

cc: Jeff Beattie, Ohio EPA (w/ enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )  
Advanced Fluids, Inc. )  
Cleveland, OH, )  
Respondent. )  
Docket No. EPCRA-05-2013-0003  
Proceeding to Assess a Civil Penalty  
Under Section 325(c)(1) of the Emergency  
Planning and Community Right-to-Know  
Act of 1986

RECEIVED  
OCT - 3 2012

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 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. Respondent is Advanced Fluids, Inc., a corporation doing business in the State of 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 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, community emergency coordinator for the local emergency planning committee 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 1 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, 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. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDSs.

12. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous.

13. 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**

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

15. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 18127 Roseland Drive, Cleveland, Ohio (facility).

16. At all times relevant to this CAFO, Respondent was an employer at the facility.

17. 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.

18. Respondent’s facility is a “facility” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

19. Monoethanolamine, CAS #141-43-5, 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).

20. Monoethanolamine, CAS #141-43-5, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

21. During at least one period of time in calendar year 2009, monoethanolamine, CAS #141-43-5, was present at the facility in an amount equal to or greater than the minimum threshold level.

22. During at least one period of time in calendar year 2010, monoethanolamine, CAS #141-43-5, was present at the facility in an amount equal to or greater than the minimum threshold level.

23. OSHA requires Respondent to prepare, or have available, an MSDS for monoethanolamine.

24. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including monoethanolamine, CAS #141-43-5, on or before March 1, 2010, for calendar year 2009.

25. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including monoethanolamine, CAS #141-43-5, on or before March 1, 2011, for calendar year 2010.

26. Triethanolamine, CAS #102-71-6, 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).

27. Triethanolamine, CAS #102-71-6, has a minimum threshold level of 10,000 pounds,

as provided in 40 C.F.R. Part 370.

28. During at least one period of time in calendar year 2009, triethanolamine, CAS #102-71-6, was present at the facility in an amount equal to or greater than the minimum threshold level.

29. During at least one period of time in calendar year 2010, triethanolamine, CAS #102-71-6, was present at the facility in an amount equal to or greater than the minimum threshold level.

30. OSHA requires Respondent to prepare, or have available, an MSDS for triethanolamine, CAS #102-71-6.

31. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including triethanolamine, CAS #102-71-6, on or before March 1, 2010, for calendar year 2009.

32. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including triethanolamine, CAS #102-71-6, on or before March 1, 2011, for calendar year 2010.

33. N-butylethanolamine, CAS #102-81-8, 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. N-butylethanolamine, CAS #102-81-8, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

35. During at least one period of time in calendar year 2009, n-butylethanolamine, CAS #102-81-8, 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 in calendar year 2010, n-butylethanolamine, CAS #102-81-8, 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 n-butylethanolamine, CAS #102-81-8.

38. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including n-butylethanolamine, CAS #102-81-8, on or before March 1, 2010, for calendar year 2009.

39. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including n-butylethanolamine, CAS #102-81-8, on or before March 1, 2011, for calendar year 2010.

40. Tall oil fatty acid, CAS #8002-26-4, 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).

41. Tall oil fatty acid, CAS #8002-26-4, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

42. During at least one period of time in calendar year 2009, tall oil fatty acid, CAS #8002-26-4, was present at the facility in an amount equal to or greater than the minimum threshold level.

43. During at least one period of time in calendar year 2010, tall oil fatty acid, CAS #8002-26-4, was present at the facility in an amount equal to or greater than the minimum

threshold level.

44. OSHA requires Respondent to prepare, or have available, an MSDS for tall oil fatty acid, CAS #8002-26-4.

45. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including tall oil fatty acid, CAS #8002-26-4, on or before March 1, 2010, for calendar year 2009.

46. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including tall oil fatty acid, CAS #8002-26-4, on or before March 1, 2011, for calendar year 2010.

47. Diisopropanolamine/canola oil alkanolamide, CAS #110-97-4, 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).

48. Diisopropanolamine/canola oil alkanolamide, CAS #110-97-4, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

49. During at least one period of time in calendar year 2009, diisopropanolamine/canola oil alkanolamide, CAS #110-97-4, was present at the facility in an amount equal to or greater than the minimum threshold level.

50. During at least one period of time in calendar year 2010, diisopropanolamine/canola oil alkanolamide, CAS #110-97-4, was present at the facility in an amount equal to or greater than the minimum threshold level.

51. OSHA requires Respondent to prepare, or have available, an MSDS for



diisopropanolamine/canola oil alkanolamide, CAS #110-97-4.

52. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including diisopropanolamine/canola oil alkanolamide, CAS #110-97-4, on or before March 1, 2010, for calendar year 2009.

53. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including diisopropanolamine/canola oil alkanolamide, CAS #110-97-4, on or before March 1, 2011, for calendar year 2010.

54. Napthenic petroleum oil, CAS #64742-52-5, 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).

55. Napthenic petroleum oil, CAS #64742-52-5, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

56. During at least one period of time in calendar year 2009, napthenic petroleum oil, CAS #64742-52-5, was present at the facility in an amount equal to or greater than the minimum threshold level.

57. During at least one period of time in calendar year 2010, napthenic petroleum oil, CAS #64742-52-5, was present at the facility in an amount equal to or greater than the minimum threshold level.

58. OSHA requires Respondent to prepare, or have available, an MSDS for napthenic petroleum oil, CAS #64742-52-5.

59. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical

inventory form including naphthenic petroleum oil, CAS #64742-52-5, on or before March 1, 2010, for calendar year 2009.

60. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including naphthenic petroleum oil, CAS #64742-52-5, on or before March 1, 2011, for calendar year 2010.

61. Castor oil, CAS #8001-79-4, 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).

62. Castor oil, CAS #8001-79-4, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

63. During at least one period of time in calendar year 2009, castor oil, CAS #8001-79-4, was present at the facility in an amount equal to or greater than the minimum threshold level.

64. During at least one period of time in calendar year 2010, castor oil, CAS #8001-79-4, was present at the facility in an amount equal to or greater than the minimum threshold level.

65. OSHA requires Respondent to prepare, or have available, an MSDS for castor oil, CAS #8001-79-4.

66. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including castor oil, CAS #8001-79-4, on or before March 1, 2010, for calendar year 2009.

67. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including castor oil, CAS #8001-79-4, on or before March 1, 2011, for calendar

year 2010.

68. Canola oil, CAS #120962-03-0, 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).

69. Canola oil, CAS #120962-03-0, has 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 in calendar year 2009, canola oil, CAS #120962-03-0, was present at the facility in an amount equal to or greater than the minimum threshold level.

71. During at least one period of time in calendar year 2010, canola oil, CAS #120962-03-0, was 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 canola oil, CAS #120962-03-0.

73. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including canola oil, CAS #120962-03-0, on or before March 1, 2010, for calendar year 2009.

74. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including canola oil, CAS #120962-03-0, on or before March 1, 2011, for calendar year 2010.

75. Chlorinated paraffin, CAS #85535-85-9, 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).

76. Chlorinated paraffin, CAS #85535-85-9, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

77. During at least one period of time in calendar year 2009, chlorinated paraffin, CAS #85535-85-9, was present at the facility in an amount equal to or greater than the minimum threshold level.

78. During at least one period of time in calendar year 2010, chlorinated paraffin, CAS #85535-85-9, was present at the facility in an amount equal to or greater than the minimum threshold level.

79. OSHA requires Respondent to prepare, or have available, an MSDS for chlorinated paraffin, CAS #85535-85-9.

80. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including chlorinated paraffin, CAS #85535-85-9, on or before March 1, 2010, for calendar year 2009.

81. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including chlorinated paraffin, CAS #85535-85-9, on or before March 1, 2011, for calendar year 2010.

82. Vegetable methyl ester, CAS #67784-80-9, 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).

83. Vegetable methyl ester, CAS #67784-80-9, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

84. During at least one period of time in calendar year 2009, vegetable methyl ester,

CAS #67784-80-9, was present at the facility in an amount equal to or greater than the minimum threshold level.

85. During at least one period of time in calendar year 2010, vegetable methyl ester, CAS #67784-80-9, was present at the facility in an amount equal to or greater than the minimum threshold level.

86. OSHA requires Respondent to prepare, or have available, an MSDS for vegetable methyl ester, CAS #67784-80-9.

87. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including vegetable methyl ester, CAS #67784-80-9, on or before March 1, 2010, for calendar year 2009.

88. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including vegetable methyl ester, CAS #67784-80-9, on or before March 1, 2011, for calendar year 2010.

89. Paraffinic petroleum oil, CAS #64742-65-0, 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).

90. Paraffinic petroleum oil, CAS #64742-65-0, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

91. During at least one period of time in calendar year 2009, paraffinic petroleum oil, CAS #64742-65-0, was present at the facility in an amount equal to or greater than the minimum threshold level.

92. During at least one period of time in calendar year 2010, paraffinic petroleum oil,

CAS #64742-65-0, was present at the facility in an amount equal to or greater than the minimum threshold level.

93. OSHA requires Respondent to prepare, or have available, an MSDS for paraffinic petroleum oil, CAS #64742-65-0.

94. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including paraffinic petroleum oil, CAS #64742-65-0, on or before March 1, 2010, for calendar year 2009.

95. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including paraffinic petroleum oil, CAS #64742-65-0, on or before March 1, 2011, for calendar year 2010.

96. Regular mineral spirits, CAS #8052-41-3, 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). Regular mineral spirits, CAS #8052-41-3, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

97. During at least one period of time in calendar year 2009, regular mineral spirits, CAS #8052-41-3, was present at the facility in an amount equal to or greater than the minimum threshold level.

98. During at least one period of time in calendar year 2010, regular mineral spirits, CAS #8052-41-3, was present at the facility in an amount equal to or greater than the minimum threshold level.

99. OSHA requires Respondent to prepare, or have available, an MSDS for regular

mineral spirits, CAS #8052-41-3.

100. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including regular mineral spirits, CAS #8052-41-3, on or before March 1, 2010, for calendar year 2009.

101. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including regular mineral spirits, CAS #8052-41-3, on or before March 1, 2011, for calendar year 2010.

102. Odorless mineral spirits, CAS #8052-41-3, 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).

103. Odorless mineral spirits, CAS #8052-41-3, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

104. During at least one period of time in calendar year 2009, odorless mineral spirits, CAS #8052-41-3, was present at the facility in an amount equal to or greater than the minimum threshold level.

105. During at least one period of time in calendar year 2010, odorless mineral spirits, CAS #8052-41-3, was present at the facility in an amount equal to or greater than the minimum threshold level.

106. OSHA requires Respondent to prepare, or have available, an MSDS for odorless mineral spirits, CAS #8052-41-3.

107. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical

inventory form including odorless mineral spirits, CAS #8052-41-3, on or before March 1, 2010, for calendar year 2009.

108. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including odorless mineral spirits, CAS #8052-41-3, on or before March 1, 2011, for calendar year 2010.

109. Caustic potash 45% liquid, CAS #1310-58-3, 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).

110. Caustic potash 45% liquid, CAS #1310-58-3, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

111. During at least one period of time in calendar year 2009, caustic potash 45% liquid, CAS #1310-58-3, was present at the facility in an amount equal to or greater than the minimum threshold level.

112. During at least one period of time in calendar year 2010, caustic potash 45% liquid, CAS #1310-58-3, was present at the facility in an amount equal to or greater than the minimum threshold level.

113. OSHA requires Respondent to prepare, or have available, an MSDS for caustic potash 45% liquid, CAS #1310-58-3.

114. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including caustic potash 45% liquid, CAS #1310-58-3, on or before March 1, 2010, for calendar year 2009.

115. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire



department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including caustic potash 45% liquid, CAS #1310-58-3, on or before March 1, 2011, for calendar year 2010.

116. Hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8, 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. Hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8, 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 in calendar year 2009, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8, was present at the facility in an amount equal to or greater than the minimum threshold level.

119. During at least one period of time in calendar year 2010, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8, was present at the facility in an amount equal to or greater than the minimum threshold level.

120. OSHA requires Respondent to prepare, or have available, an MSDS for hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8.

121. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8, on or before March 1, 2010, for calendar year 2009.

122. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, CAS #66310-09-8, on

or before March 1, 2011, for calendar year 2010.

123. 142°F flash solvent, CAS #64742-47-8, 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).

124. 142°F flash solvent, CAS #64742-47-8, has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

125. During at least one period of time in calendar year 2009, 142°F flash solvent, CAS #64742-47-8, was present at the facility in an amount equal to or greater than the minimum threshold level.

126. During at least one period of time in calendar year 2010, 142°F flash solvent, CAS #64742-47-8, was present at the facility in an amount equal to or greater than the minimum threshold level.

127. OSHA requires Respondent to prepare, or have available, an MSDS for 142°F flash solvent, CAS #64742-47-8.

128. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including 142°F flash solvent, CAS #64742-47-8, on or before March 1, 2010, for calendar year 2009.

129. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including 142°F flash solvent, CAS #64742-47-8, on or before March 1, 2011, for calendar year 2010.

130. Sulfuric acid, CAS# 7664-93-9, is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

131. Sulfuric acid, CAS# 7664-93-9, 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).

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

133. 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).

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

135. During at least one period of time in calendar year 2009, sulfuric acid, CAS# 7664-93-9, was present at the facility in an amount equal to or greater than the minimum threshold level.

136. During at least one period of time in calendar year 2010, sulfuric acid, CAS# 7664-93-9, was present at the facility in an amount equal to or greater than the minimum threshold level.

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

138. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including sulfuric acid, CAS# 7664-93-9 on or before March 1, 2010, for calendar year 2009.

139. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form including sulfuric acid, CAS# 7664-93-9 on or before March 1, 2011, for

calendar year 2010.

140. At all times relevant to this Complaint, the Ohio Emergency Management Agency was the SERC for Ohio under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

141. At all times relevant to this Complaint, the Cuyahoga County local emergency planning committee was the LEPC for Cuyahoga County, Ohio under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

142. At all times relevant to this Complaint, the Cleveland Fire Department was the fire department with jurisdiction over the facility.

143. Respondent submitted to the SERC, LEPC, and Cleveland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid on August 2, 2010, for calendar year 2009.

144. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

145. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

146. Each day Respondent failed to submit to the Cleveland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

147. Respondent submitted to the SERC, LEPC, and Cleveland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid on March 23, 2011, for calendar year 2010.

148. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid by March 1, 2011, for calendar year 2010 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

149. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid, by March 1, 2011, for calendar year 2010 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

150. Each day Respondent failed to submit to the Cleveland Fire Department a completed Emergency and Hazardous Chemical Inventory Form including monoethanolamine, triethanolamine, n-butylethanolamine, tall oil fatty acid, diisopropanolamine/canola oil alkanolamide, naphthenic petroleum oil, castor oil, canola oil, chlorinated paraffin, vegetable methyl ester, paraffinic petroleum oil, regular mineral spirits, odorless mineral spirits, caustic potash 45% liquid, hexahydro-1,3,5-tris(2-hydroxyethyl)-5-triazine, 142°F flash solvent, and sulfuric acid, by March 1, 2011, for calendar year 2010 constitutes a separate violation of Section

312(a) of EPCRA, 42 U.S.C. § 11022(a).

**Civil Penalty**

151. Complainant has determined that an appropriate civil penalty to settle this action is \$40,000. 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).

152. Within 30 days after the effective date of this CAFO, Respondent must pay a \$40,000 civil penalty for the EPCRA violations by sending 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, MO 63101

[The check must note the following: In the Matter of: Advanced Fluids, Inc., the docket number of this CAFO and the billing document number \_\_\_\_\_.] **2751344E003**

153. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document 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

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

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

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

155. 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.

156. 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**

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

158. 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.

159. Respondent certifies that it is complying with Section 312 of EPCRA, 42 U.S.C. § 11022.

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

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

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

163. 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.

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

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

**Advanced Fluids, Inc., Respondent**

9/19/12


\_\_\_\_\_  
Date




\_\_\_\_\_  
Emil Rosul  
Advanced Fluids, Inc.

U.S. Environmental Protection Agency, Complainant

9/26/12  
Date

  
Sharon Jaffess, Chief  
Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency  
Region 5

9-26-12  
Date


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

**In the Matter of: Advanced Fluids, Inc.**  
**Docket No. [ ] EPCRA-05-2013-0003**

**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.

10-2-12  
Date

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

**RECEIVED**  
OCT - 3 2012  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**In the Matter of: Advanced Fluids, Inc.**  
**Docket No. [ EPCRA-05-2013-0003**

**Certificate of Service**

I, Ginger Jager, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

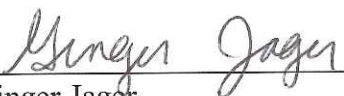
Mr. Emil Rosul  
Advanced Fluids, Inc.  
18127 Roseland Road  
Cleveland, Ohio 44112

**RECEIVED**

**OCT - 3 2012**

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

On the 3rd day of October, 2012

  
\_\_\_\_\_  
Ginger Jager  
U.S. Environmental Protection Agency  
Region 5