



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
JAN 22 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Scott Forster
Vice President and COO
Magnus International Group
5005 Rockside Road, Suite 600-071
Independence, Ohio 44131

Re: Hardy Industrial Technologies, LLC, Painesville, Ohio, Consent Agreement and Final Order, Docket No. EPCRA-05-2015-0006

Dear Mr. Forster:

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 JAN 22 2015.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the in the manner prescribed in paragraph 84, and reference your checks with the docket number EPCRA-05-2015-0006.

Your first payment is due on FEB 22 2015.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Erik Olson, Associate 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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. EPCRA-05-2015-0006
)
Hardy Industrial Technologies, LLC) Proceeding to Assess a Civil Penalty Under
Painesville, Ohio) Sections 325(c)(1) and (c)(2) of the
) Emergency Planning and Community Right-
Respondent.) to-Know Act of 1986
)
_____)

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Sections 325(c)(1) and (c)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. §§ 11045(c)(1) and (c)(2), 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, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Hardy Industrial Technologies, LLC, a Delaware 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 the terms of the 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 311 of EPCRA, 42 U.S.C. § 11021, 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 submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC) and the fire department with jurisdiction over the facility an MSDS for each such hazardous chemical present at the facility at any one time in an amount equal to or greater than 10,000 pounds, and for each extremely hazardous chemical present at the facility in an amount equal to or greater than 500 pounds, or the threshold planning quantity (TPQ), whichever is lower, or to submit a list of such chemicals. The owner or operator must submit the required MSDS or list within three months after the owner or operator is first required to have the MSDS available or after the hazardous chemical requiring an MSDS first becomes present at the facility in an amount exceeding the threshold level.

10. 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 OSHA to prepare or have available an MSDS for a hazardous chemical, to submit to the SERC, community coordinator for the LEPC and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, 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, 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.

11. Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a), assist 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.

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 U.S.C. § 1910.1200(c).

13. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or 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 per day of violation of EPCRA Section 312. 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 these statutory maximum penalties to \$37,500 per day of violation for violations that occurred after January 12, 2009.

15. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(2), authorizes U.S. EPA to assess a civil penalty of up to \$10,000 for each EPCRA Section 311 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 \$16,000 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

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

17. At all times relevant to this Complaint, Respondent was an owner or operator of the facility located at 679 Hardy Road, Painesville Township, Ohio (facility).

18. At all times relevant to this Complaint, Respondent was an employer at the facility.

19. 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.

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

21. Brine solution is classified as a health hazard and 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. Brine solution has a minimum threshold level of 10,000 pounds, as provided in

40 C.F.R. Part 370.

23. Sodium hydroxide is classified as a health hazard and 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).

24. Sodium hydroxide has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

25. Nickel catalyst is classified as a health hazard and 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).

26. Nickel catalyst has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

27. Sulfuric acid is classified as a health hazard and 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. Sulfuric acid is an “extremely hazardous substance” according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

29. Sulfuric acid has a minimum threshold level of 500 pounds, as provided in 40 C.F.R. Part 370.

30. During at least one period of time in calendar year 2011, brine solution, sodium hydroxide, nickel catalyst, and sulfuric acid were present at the facility in an amount equal to or greater than the respective minimum threshold level for each chemical.

31. OSHA requires Respondent to prepare, or have available, an MSDS for brine solution, sodium hydroxide, nickel catalyst, and sulfuric acid.

32. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire

department with jurisdiction over the facility on or before March 31, 2012: an MSDS for brine solution or a list including brine solution; an MSDS for sodium hydroxide or a list including sodium hydroxide; and an MSDS for nickel catalyst or a list including nickel catalyst.

33. 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 brine solution, sodium hydroxide, and nickel catalyst on or before March 1, 2012 for calendar year 2011.

34. At all times relevant to this CAFO, the Ohio Environmental Protection Agency was the SERC for Ohio under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

35. At all times relevant to this CAFO, the Lake County Emergency Management Agency was the LEPC for Lake County, Ohio under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

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

Count 1

37. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

38. As of January 4, 2013 Respondent had not submitted to the SERC an MSDS for brine solution or a list showing brine solution.

39. Each day Respondent failed to submit to the SERC an MSDS or a list for brine solution by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 2

40. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

41. As of January 4, 2013 Respondent had not submitted to the LEPC an MSDS for brine solution or a list showing brine solution.

42. Each day Respondent failed to submit to the LEPC an MSDS or a list for brine solution by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 3

43. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

44. As of January 4, 2013 Respondent had not submitted to the Painesville Township Fire Department an MSDS for brine solution or a list showing brine solution.

45. Each day Respondent failed to submit to the Painesville Township Fire Department a MSDS or a list for brine solution by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 4

46. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

47. As of January 4, 2013 Respondent had not submitted to the SERC an MSDS for sodium hydroxide or a list showing sodium hydroxide.

48. Each day Respondent failed to submit to the SERC an MSDS or a list for sodium

hydroxide by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 5

49. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

50. As of January 4, 2013 Respondent had not submitted to the LEPC an MSDS for sodium hydroxide or a list showing sodium hydroxide.

51. Each day Respondent failed to submit to the LEPC an MSDS or a list for sodium hydroxide by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 6

52. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

53. As of January 4, 2013 Respondent had not submitted to the Painesville Township Fire Department an MSDS for sodium hydroxide or a list showing sodium hydroxide.

54. Each day Respondent failed to submit to the Painesville Township Fire Department an MSDS or a list for sodium hydroxide by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 7

55. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

56. As of January 4, 2013 Respondent had not submitted to the SERC an MSDS for

nickel catalyst or a list showing nickel catalyst.

57. Each day Respondent failed to submit to the SERC an MSDS or a list for nickel catalyst by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 8

58. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

59. As of January 4, 2013 Respondent had not submitted to the LEPC an MSDS for nickel catalyst or a list showing nickel catalyst.

60. Each day Respondent failed to submit to the LEPC an MSDS or a list for nickel catalyst by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 9

61. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

62. As of January 4, 2013 Respondent had not submitted to the Painesville Township Fire Department an MSDS for nickel catalyst or a list showing nickel catalyst.

63. Each day Respondent failed to submit to the Painesville Township Fire Department an MSDS or a list for nickel catalyst by March 31, 2012, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

Count 10

74. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in

this paragraph.

75. As of January 4, 2013 Respondent had not submitted to the SERC an Emergency and Hazardous Chemical Inventory Form including brine solution, sodium hydroxide, and nickel catalyst for calendar year 2011.

76. Each day Respondent failed to submit to the SERC an Emergency and Hazardous Chemical Inventory Form including brine solution, sodium hydroxide, and nickel catalyst by March 1, 2012, for calendar year 2011 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Count 11

77. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

78. As of January 4, 2013 Respondent had not submit to the LEPC an Emergency and Hazardous Chemical Inventory Form including brine solution, sodium hydroxide, and nickel catalyst for calendar year 2011.

79. Each day Respondent failed to submit to the LEPC an Emergency and Hazardous Chemical Inventory Form including brine solution, sodium hydroxide, and nickel catalyst by March 1, 2012, for calendar year 2011 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Count 12

80. Complainant incorporates paragraphs 1 through 36 of this CAFO; as if set forth in this paragraph.

81. As of January 4, 2013 Respondent had not submitted to the Painesville Township

Fire Department an Emergency and Hazardous Chemical Inventory Form including brine solution, sodium hydroxide, and nickel catalyst for calendar year 2011.

82. Each day Respondent failed to submit to the Painesville Township Fire Department an Emergency and Hazardous Chemical Inventory Form including brine solution, sodium hydroxide, and nickel catalyst by March 1, 2012, for calendar year 2011 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Civil Penalty

83. Complainant has determined that an appropriate civil penalty to settle this action is \$31,559.07 for the EPCRA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, Respondent's agreement to perform a supplemental environmental project, 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).

84. Within 45 days after the effective date of this CAFO, Respondent must pay a \$15,789.38 civil penalty for the EPCRA violations. Within 90 days after the effective date of this CAFO, Respondent must pay a \$15,769.69 penalty for the EPCRA violations. Respondent must make these payments by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

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

In the comment or description field of the electronic funds transfers, state the following: "Hardy Industrial Technologies, LLC" and the docket number of this CAFO.

85. Respondent must send notice of the wire transfer to:

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

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

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

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

87. If Respondent does not timely pay the civil penalty or any stipulated penalties due under paragraph 103, below, 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.

88. 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.

Supplemental Environmental Project

89. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment or public health by reducing the amount of hazardous nickel catalyst entering the facility's waste stream. The SEP consists of overhauling and utilizing a fractionation process at its Painesville, Ohio facility instead of the hydrogenation process for approximately half of Respondent's production. This change in process is estimated to reduce the amount of nickel catalyst usage by 128,000 pounds, annually.

90. At its Painesville, Ohio facility, Respondent must complete the SEP as follows:

- a. Within six months of the effective date of the CAFO, Respondent will overhaul the antiquated fractionation system at the facility; and
- b. Will operate the overhauled fractionation system for at least three years, subject to the conditions described below in paragraph 93.

91. Respondent must spend at least \$200,000 to refurbish and overhaul the fractionation system for at least one year.

92. In the fractionation system, Respondent must not use any chemical that is more toxic or hazardous than nickel catalyst. Respondent must use material safety data sheets to

determine any new chemical's toxic and hazardous characteristics.

93. Respondent must maintain in operation the fractionation system refurbished as the SEP for three years following its installation, unless there is a change in operation that no longer requires the technology or there is an act of God which makes operation impossible.

94. Respondent certifies as follows:

I certify that Hardy Industrial Technologies, LLC is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Hardy Industrial Technologies, LLC has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Hardy Industrial Technologies, LLC 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. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial 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 U.S. EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For 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 expired.

95. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

96. Respondent must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

97. Within one year of the effective date of the CAFO and two years after the effective

date of the CAFO, Respondent must submit a report demonstrating how effective the fractionation system was at removing the hazardous wastes from the waste stream as described above in paragraph 89.

98. Within three years of the effective date of the CAFO, Respondent must submit a SEP completion report to U.S. EPA. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual costs 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).

99. Respondent must submit all notices and reports required by this CAFO by first class mail to James Entzminger of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 85, above.

100. In each report that Respondent submits as provided by this CAFO, it 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.

101. Following receipt of the SEP completion report described in paragraph 97, above,

U.S. 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 U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 103.

102. If U.S. 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 U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 103, below.

103. 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 89, Respondent must pay a penalty of \$94,500. If
- b. If Respondent did not complete the SEP satisfactorily, but U.S. 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 91, 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 91, Respondent must pay a penalty of \$9,450.
- d. If Respondent did not submit timely the SEP completion report or any other report required by paragraphs 96 or 97, 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>
\$ 500	1st through 14th day
\$1,000	15th through 30th day
\$1,500	31st day and beyond

104. U.S. 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.

105. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 84, above, and will pay interest, handling charges and nonpayment penalties on any overdue amounts.

106. Any public statement that Respondent makes referring to the SEP must include the following language, "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Respondent."

107. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondent in connection with the SEP under the terms of this CAFO.

108. 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

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

110. 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.

111. Respondent certifies that it is complying with Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a).

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

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

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

115. 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.

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

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

Hardy Industrial Technologies, LLC, Respondent


12/23/14
Date




Scott Forster
Vice President and COO
Magnus International Group

U.S. Environmental Protection Agency, Complainant

1/13/15
Date


Lawrence Schmitt, Acting Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

1/14/2015
Date


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


In the Matter of: Hardy Industrial Technologies, LLC. Painesville, Ohio
Docket No. EPCRA-05-2015-0006



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.

1/16/2015
Date



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

In the Matter of: Hardy Industrial Technologies, LLC, Painesville, Ohio
Docket No. EPCRA-05-2015-0006



Certificate of Service

I, James Entzminger, 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 a copy of 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:

Scott Forster
Vice President and COO
Magnus International Group
16533 Chillicothe Road
Chagrin Falls, OH 44023

I mailed a copy of the CAFO to

Meagan L. Moore, Attorney
Brouse McDowell
600 Superior Avenue East, Suite 1600
Cleveland, Ohio 44114

on the 22 day of January 2015


James Entzminger
U.S. Environmental Protection Agency
Region 5