



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

September 30, 2013

REPLY TO THE ATTENTION OF:

LC-8J

**CERTIFIED MAIL 7009 1680 0000 7668 1841**  
**RETURN RECEIPT REQUESTED.**

Mr. Roy Schorsch  
Oxbow Midwest Calcining, LLC  
12308 South New Avenue  
Lemont, Illinois 60439

Consent Agreement and Final Order, In the Matter of  
Oxbow Midwest Calcining, LLC, Docket No. EPCRA-05-2013-0027

Dear Mr. Schorsch:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 30, 2013, with the Regional Hearing Clerk.

The civil penalty in the amount of \$118,326 is to be paid in the manner described in paragraphs 88 and 89. In the comment or description field of the electronic funds transfer, please state: Oxbow Midwest Calcining, LLC, and the docket number of this CAFO (above). Payment is due by October 30, 2013 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Maynard Shaw", with a long horizontal flourish extending to the right.

Maynard Shaw  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



In the Matter of:

Oxbow Midwest Calcining, LLC  
Lemont, Illinois

Respondent.

) Docket No. EPCRA-05-2013-0027  
)  
) Proceeding to Assess a Civil Penalty  
) Under Section 325(c) of the Emergency  
) Planning and Community Right-to-Know  
) Act of 1986, 42 U.S.C. § 11045(c)

Consent Agreement and Final Order

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), 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. Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Oxbow Midwest Calcining, LLC, a corporation doing business in the State of Illinois.
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. For purposes of this proceeding, 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 to the allegations in this CAFO 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.

9. Respondent certifies, and Complainant confirms, that as of the date of the execution of this CAFO, Respondent has corrected the violation(s) alleged in this CAFO and the subject facility is now, to the best of their knowledge, complying with all applicable requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

### **Statutory and Regulatory Background**

10. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that has 10 or more full-time employees; is covered by certain Standard Industrial Classification (SIC) codes specified in 40 C.F.R. § 372.23(a); meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed, or otherwise used a toxic chemical listed under Section 313(c) of EPCRA and 40 C.F.R. § 372.65 in an amount exceeding an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.25 and 372.28, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the State in which the subject facility is located by July 1 for each toxic chemical known by the owner or operator to have been manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

11. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, except as provided in 40 C.F.R. §§ 372.27 and 372.28, the reporting threshold quantity for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989. The reporting threshold quantity for a toxic chemical otherwise used at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

12. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold quantity for benzo(g,h,i)perylene manufactured, processed, or otherwise used at a facility is 10 pounds for calendar years including and subsequent to 2001.

13. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold quantity for lead compounds manufactured, processed, or otherwise used at a facility is 100 pounds for calendar years including and subsequent to 2001.

14. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Section 313 of EPCRA that occurred after March 15, 2004, through January 12, 2009, and \$37,500 per day for each violation of Section 313 of EPCRA that occurred after January 12, 2009, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

**Factual Allegations and Alleged Violations**

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

16. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 12308 South New Avenue, Lemont, Illinois.

17. At all times relevant to this CAFO, Respondent had 10 or more “full-time employees,” as defined at 40 C.F.R. § 372.3, and was an employer at the facility.

18. Respondent’s facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person.

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

20. The facility has a SIC code of 2999, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

21. The Respondent voluntarily disclosed to EPA on November 10, 2010; September 9, 2011; and July 30, 2012 through EPA’s electronic Audit Policy Self-Disclosure System the violations of Section 313 of EPCRA, 42 U.S.C. § 11023, at Respondent’s facility which are the subject of this CAFO.

**Count I**

22. During calendar year 2007, Respondent’s facility processed, as that term is defined at 40 C.F.R. § 372.3, benzo(g,h,i)perylene, a CAS No. listed under 40 C.F.R. § 372.65, in the amount of 7,400 pounds which is greater than 10 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

23. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for benzo(g,h,i)perylene for calendar year 2007 by July 1, 2008.

24. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for benzo(g,h,i)perylene for calendar year 2007 by July 1, 2008.

25. Respondent submitted a Form R for benzo(g,h,i)perylene to the Administrator of EPA and to Illinois on November 4, 2011, for calendar year 2007.

26. Respondent's failure to submit timely a Form R for benzo(g,h,i)perylene to the Administrator of EPA and to Illinois for calendar year 2007 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### Count II

27. During calendar year 2007, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, polycyclic aromatic compounds, a chemical category listed under 40 C.F.R. § 372.65, in the amount of 57,000 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

28. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for polycyclic aromatic compounds for calendar year 2007 by July 1, 2008.

29. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for polycyclic aromatic compounds for calendar year 2007 by July 1, 2008.

30. Respondent submitted a Form R for polycyclic aromatic compounds to the Administrator of EPA and to Illinois on November 4, 2011, for calendar year 2007.

31. Respondent's failure to submit timely a Form R for polycyclic aromatic compounds to the Administrator of EPA and to Illinois for calendar year 2007 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count III**

32. During calendar year 2007, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, vanadium compounds, a chemical category listed under 40 C.F.R. § 372.65, in the amount of 31,000 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

33. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for vanadium compounds for calendar year 2007 by July 1, 2008.

34. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for vanadium compounds for calendar year 2007 by July 1, 2008.

35. Respondent submitted a Form R for vanadium compounds to the Administrator of EPA and to Illinois on November 4, 2011, for calendar year 2007.

36. Respondent's failure to submit timely a Form R for vanadium compounds to the Administrator of EPA and to Illinois for calendar year 2007 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count IV**

37. During calendar year 2007, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, lead compounds, a chemical category listed under 40 C.F.R. § 372.65, in the amount of 790 pounds which is greater than 100 pounds, the threshold for

reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.

§ 372.28.

38. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for lead compounds for calendar year 2007 by July 1, 2008.

39. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for lead compounds for calendar year 2007 by July 1, 2008.

40. Respondent submitted a Form R for lead compounds to the Administrator of EPA and to Illinois on November 4, 2011, for calendar year 2007.

41. Respondent's failure to submit timely a Form R for lead compounds to the Administrator of EPA and to Illinois for calendar year 2007 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### Count V

42. During calendar year 2007, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size), a CAS No. listed under 40 C.F.R. § 372.65, in the amount of 560,000 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

43. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size) for calendar year 2007 by July 1, 2008.

44. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size) for calendar year 2007 by July 1, 2008.

45. Respondent submitted a Form R for sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size) to the Administrator of EPA and to Illinois on November 4, 2011, for calendar year 2007.

46. Respondent's failure to submit timely a Form R for sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size) to the Administrator of EPA and to Illinois for calendar year 2007 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Count VI**

47. During calendar year 2008, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, vanadium compounds, a chemical category listed under 40 C.F.R. § 372.65, in the amount of 28,000 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

48. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for vanadium compounds for calendar year 2008 by July 1, 2009.

49. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for vanadium compounds for calendar year 2008 by July 1, 2009.

50. Respondent submitted a Form R for vanadium compounds to the Administrator of EPA and to Illinois on December 27, 2010, for calendar year 2008.

51. Respondent's failure to submit timely a Form R for vanadium compounds to the Administrator of EPA and to Illinois for calendar year 2008 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

### Count VII

52. During calendar year 2008, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, polycyclic aromatic compounds, a chemical category listed under 40 C.F.R. § 372.65, in the amount of 51,000 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

53. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for polycyclic aromatic compounds for calendar year 2008 by July 1, 2009.

54. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for polycyclic aromatic compounds for calendar year 2008 by July 1, 2009.

55. Respondent submitted a Form R for polycyclic aromatic compounds to the Administrator of EPA and to Illinois on December 27, 2010, for calendar year 2008.

56. Respondent's failure to submit timely a Form R for polycyclic aromatic compounds to the Administrator of EPA and to Illinois for calendar year 2008 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

### Count VIII

57. During calendar year 2009, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, benzo(g,h,i)perylene, a CAS No. listed under 40 C.F.R. § 372.65, in the amount of 5,000 pounds which is greater than 10 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

58. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for benzo(g,h,i)perylene for calendar year 2009 by July 1, 2010.

59. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for benzo(g,h,i)perylene for calendar year 2009 by July 1, 2010.

60. Respondent submitted a Form R for benzo(g,h,i)perylene to the Administrator of EPA and to Illinois on December 27, 2010, for calendar year 2009.

61. Respondent's failure to submit timely a Form R for benzo(g,h,i)perylene to the Administrator of EPA and to Illinois for calendar year 2009 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### Count IX

62. During calendar year 2009, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, polycyclic aromatic compounds, a chemical category listed under 40 C.F.R. § 372.65, in the amount of 38,000 pounds which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

63. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for polycyclic aromatic compounds for calendar year 2009 by July 1, 2010.

64. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for polycyclic aromatic compounds for calendar year 2009 by July 1, 2010.

65. Respondent submitted a Form R for polycyclic aromatic compounds to the Administrator of EPA and to Illinois on December 27, 2010, for calendar year 2009.

66. Respondent's failure to submit timely a Form R for polycyclic aromatic compounds to the Administrator of EPA and to Illinois for calendar year 2009 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count X**

67. During calendar year 2010, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, ethylene, a CAS No. listed under 40 C.F.R. § 372.65, in the amount of 720,000 pounds which is greater than 10,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

68. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for ethylene for calendar year 2010 by July 1, 2011.

69. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for ethylene for calendar year 2010 by July 1, 2011.

70. Respondent submitted a Form R for ethylene to the Administrator of EPA and to Illinois on July 30, 2012, for calendar year 2010.

71. Respondent's failure to submit timely a Form R for ethylene to the Administrator of EPA and to Illinois for calendar year 2010 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count XI**

72. During calendar year 2010, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, propylene, a CAS No. listed under 40 C.F.R. § 372.65, in the amount of 420,000 pounds which is greater than 10,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

73. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for propylene for calendar year 2010 by July 1, 2011.

74. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for propylene for calendar year 2010 by July 1, 2011.

75. Respondent submitted a Form R for propylene to the Administrator of EPA and to Illinois on July 30, 2012, for calendar year 2010.

76. Respondent's failure to submit timely a Form R for propylene to the Administrator of EPA and to Illinois for calendar year 2010 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Count XII**

77. During calendar year 2011, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, ethylene, a CAS No. listed under 40 C.F.R. § 372.65, in the amount of 940,000 pounds which is greater than 10,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

78. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for ethylene for calendar year 2011 by July 1, 2012.

79. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for ethylene for calendar year 2011 by July 1, 2012.

80. Respondent submitted a Form R for ethylene to the Administrator of EPA and to Illinois on July 30, 2012, for calendar year 2011.

81. Respondent's failure to submit timely a Form R for ethylene to the Administrator of EPA and to Illinois for calendar year 2011 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Count XIII**

82. During calendar year 2011, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, propylene, a CAS No. listed under 40 C.F.R. § 372.65, in the

amount of 280,000 pounds which is greater than 10,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

83. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for propylene for calendar year 2011 by July 1, 2012.

84. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for propylene for calendar year 2011 by July 1, 2012.

85. Respondent submitted a Form R for propylene to the Administrator of EPA and to Illinois on July 30, 2012, for calendar year 2011.

86. Respondent's failure to submit timely a Form R for propylene to the Administrator of EPA and to Illinois for calendar year 2011 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### Civil Penalty

87. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$118,326. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations; and with respect to Respondent, its prior history of violations, economic benefit or savings (if any) resulting from the violations, its self-disclosure of the violations, and other matters as justice may require. Complainant also considered EPA's Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) (amended) (April 12, 2001). Additionally, Complainant has reviewed the Respondent's recently-prepared *EPCRA Section 313 (SARA) Management Plan* (Plan), and concluded that implementation of the Plan will reduce the likelihood of future non-compliance.

88. Within 30 days after the effective date of this CAFO, Respondent must pay the \$118,326 civil penalty for the EPCRA violations by Automated Clearinghouse (ACH) also known as REX or remittance express, ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent 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, set forth the case title and the docket number of this CAFO. To pay on-line, go 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.

89. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)  
Attention: La Dawn Whitehead  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Maynard Shaw (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Steven Kaiser (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

91. If Respondent does not pay timely the civil penalty, 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.

92. Pursuant to 40 C.F.R. § 13.11 and 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 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 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

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

94. This 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 violations of law.

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

96. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

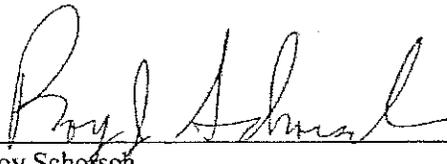
98. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

99. Each party agrees to bear its own costs and attorneys fees in this action.

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

**Oxbow Midwest Calcining, LLC, Respondent**

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Roy Schofsch  
Vice President of Operations  
Oxbow Midwest Calcining, LLC

9/24/13

**United States Environmental Protection Agency, Complainant**

\_\_\_\_\_  
Date

September 27, 2013

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

In the Matter of:  
Oxbow Midwest Calcining, LLC  
Docket No. EPCRA-05-2013-0027

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.

9-27-13  
Date

  
\_\_\_\_\_  
Susani Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5



CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Oxbow Midwest Calcining, LLC was filed on September 30, 2013, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed, by Certified Mail, Receipt No. 7009 1680 0000 7668 1841, a copy of the original to the Respondent:

Mr. Roy Schorsch  
Oxbow Midwest Calcining, LLC  
12308 South New Avenue  
Lemont, Illinois 60439

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Steve Kaiser, Counsel for Complainant ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD



Frederick Brown, PTCS (LC-8J)  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. EPCRA-05-2013-0027



bcc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)