



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 18 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Carroll
Regional Director, HSE and Risk, PM
GKN Hoeganaes
1001 Taylors Lane
Cinnaminson, New Jersey 08077

Re: Consent Agreement and Final Order
In the Matter of Hoeganaes Corporation, Gallatin, TN
Docket No. CAA-04-2018-1500(b)

Dear Mr. Carroll:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2018-1500(b)) involving Hoeganaes Corporation. The CAFO was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Hoeganaes Corporation on notice of its potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U.S. Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please contact Phyllis Warrilow of the South Air Enforcement and Toxics Section at (404) 562-9198 or Lucia Mendez, Associate Attorney, at (404) 562-9637.

Sincerely,

A handwritten signature in blue ink that reads "Beverly A. Spagg".

Beverly A. Spagg
Chief
Air Enforcement and Toxics Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 4

In the Matter of:

Hoeganaes Corp., Gallatin, TN

Respondent.

Docket No. CAA-04-2018-1500(b)

2018 SEP 18 AM 2:15
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 113(b) of the Clean Air Act or the Act, 42 U.S.C. § 7413(b) and Sections 22.13 and 22.18 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 Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.

II. PARTIES

3. Complainant is the Administrator of the United States Environmental Protection Agency, Region 4 (EPA). On EPA's behalf, the Director of the Air, Pesticides and Toxics Management Division, EPA Region 4, is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act.
4. Respondent is Hoeganaes Corp., a corporation doing business in the State of Tennessee and incorporated under the laws of the State of Delaware. This proceeding pertains to Respondent's facility located at 1315 Airport Road, Gallatin, Sumner County, Tennessee (the Facility).

III. GOVERNING LAW

5. Respondent is a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e).
6. Respondent is the "owner" and "operator" of the Facility within the meaning of Section 112(a)(9) of the Act, 42 U.S.C. §7412(a)(9).

7. Section 112 (r)(1) of the Act, 42 U.S.C. §7412(r)(1), commonly referred to as the General Duty Clause, addresses the prevention of releases of substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. §7412(r)(3), or any other extremely hazardous substance. The purpose of this section is to prevent the accidental release and to minimize the consequences of a release of any listed substance or any other extremely hazardous substance.
8. Section 112(r)(1) of the Act, 42 U.S.C. §7412(r)(1), applies to owners and operators of stationary sources producing, processing, handling or storing listed or other extremely hazardous substances.
9. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.
10. The notice requirements of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), do not apply to the alleged violations in this Consent Agreement.

IV. FINDINGS OF FACTS

11. At all relevant times, Respondent owned and operated a primary metal products manufacturing facility located at 1315 Airport Road in Gallatin, Sumner County, Tennessee.
12. The Facility is a “stationary source” within the meaning of the CAA Section 112(r)(2)(C), 42 U.S.C. §7412(r)(2)(C).
13. At the Facility, Respondent produces annually over 300,000 tons of powdered metal which is used in the production of automotive parts.
14. Hydrogen is handled in the production of powdered metal, and hydrogen is a regulated flammable substance listed under Section 112(r)(3) at 40 C.F.R. § 68.130.
15. The Facility receives scrap iron and steel that is melted and poured into a machine called an atomizer which uses high pressure to cool the molten metal turning it into a wet metal powder or slurry. From the atomizer, the metal slurry is dewatered and dried in rotary driers or kilns. After drying, the powder is screened by an electric shaker, to remove unwanted larger particles and conveyed to storage bins prior to being annealed.
16. The powdered metal is placed on 100foot long conveyor belts or bands which run through one of 12 annealing band furnaces at the Facility. After passing through the annealing furnaces, the metal powder is transferred to the blending line where additives are mixed with the powder and then the powder is packaged and stored in the warehouse for shipment.
17. The process of annealing uses a hydrogen atmosphere to reduce the iron by removing the oxides and preventing oxidation. Hydrogen is conveyed to the annealing furnaces via pipes in a trench under the floor and after annealing, the hydrogen is vented through a separate hydrogen vent pipe.

18. On May 27, 2011, a hydrogen explosion occurred while an employee was attempting to remove a metal plate covering the hydrogen vent and supply pipes in the floor trench to identify the source of a hissing sound of leaking gas. The floor trench contained water which was in contact with the hydrogen vent and supply pipes.
19. Prior to the May 27, 2011 hydrogen explosion, Respondent had no program for inspecting, testing, and maintaining the mechanical integrity of its hydrogen vent and supply piping. At the time of the May 27, 2011 explosion, the hydrogen vent pipe had corroded, resulting in a leak that caused the hissing sound.

V. ALLEGED VIOLATIONS

Failure to Identify Hazards Which Result from Accidental Releases of Hydrogen

20. Pursuant to the General Duty Clause, Section 112(r)(1) of the Act, Respondent had a duty to identify hazards which may result from accidental releases of any substance listed under 40 C.F.R. §68.130 or any other extremely hazardous substance such as hydrogen, using appropriate hazard assessment techniques.
21. Respondent prepared a Hazard and Operability Plan (HAZOP) dated September 16, 1998, for the piping in hydrogen service at the Facility, which identified corrosion/erosion, service failure and lack of maintenance as potential problems. However, the HAZOP failed to identify any hazards associated with hydrogen vent pipes.
22. Respondent's failure to identify hazards associated with hydrogen vent pipes is a violation of the General Duty Clause under Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1).

Failure to Design and Maintain a Safe Facility Taking Necessary Steps to Prevent Accidental Releases of Hydrogen

23. Pursuant to the General Duty Clause, Section 112(r)(1) of the Act, Respondent had a duty to design and maintain a safe facility taking such steps as are necessary to prevent releases.
24. Respondent failed to provide any records of inspections or any inspection schedules of the hydrogen piping. The condition of the hydrogen vent pipe after the May 27, 2011 explosion, including the presence, post explosion, of a 3 by 8 inch hole in the vent pipe, indicates that the vent pipe had been corroded and not inspected for some time.
25. Respondent failed to design and maintain a safe facility by failing to have preventative maintenance and a mechanical integrity program for the hydrogen piping.
26. Respondent failed to design and maintain a safe facility by: failing to have written procedures for leak detection and testing of its hydrogen piping; failing to maintain written records of repairs and maintenance; and, by failing to perform inspections of its hydrogen vent piping.
27. Respondent's failure to design and maintain a safe facility by not conducting inspections and testing, performing maintenance, and by failing to have a mechanical integrity program for

the hydrogen piping is a violation of the General Duty of Care under Section 112(r)(1) of the Act, 42 U.S.C. §7412(r)(1).

Steps Taken by Respondent to Achieve Compliance

28. During negotiations, Respondent provided information showing the alleged violations were corrected, including among other things, documents that showed the piping associated with the hydrogen explosion had been replaced, that systems for monitoring hydrogen were installed, and that employees were trained to safely handle hydrogen.

VI. STIPULATIONS

29. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

30. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- (b) neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the conditions specified in this CAFO;
- (e) waives any right to contest the factual allegations set forth in this CAFO; and
- (f) waives its rights to appeal the Order accompanying this CAFO.

31. For the purpose of this proceeding, Respondent:

- (a) agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Act, 42 U.S.C. § 7607(b)(1);
- (d) waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

- (e) by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

32. Complainant and Respondent (the Parties), having agreed that settlement of this action is in the public interest, and is consistent with the provisions and objectives of the Act and applicable regulations, consent to the entry of this CAFO without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.
33. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding.

VII. TERMS OF PAYMENT

34. Respondent consents to the payment of a civil penalty in the amount of **\$160,000**, which is to be paid within thirty (30) calendar days of the effective date of this CAFO.
35. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York

ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

36. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

a) Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

b) Phyllis Warrilow
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
Warrilow.Phyllis@EPA.gov

37. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and "Docket No. CAA-04-2018-1500(b)."

38. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may request the Attorney General to bring a civil action in an appropriate district court to recover: (a) the amount assessed; (b) interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); (c) the United States' attorneys' fees and enforcement expenses; and (d) a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

39. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- (a) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14;
 - (b) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
 - (c) suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
 - (d) refer the debt to the Department of Justice after having taken aggressive collection action, as provided in 40 C.F.R. § 13.33.
40. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

41. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
42. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
43. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.
44. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
45. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

46. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
47. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
48. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
49. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
50. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
51. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
52. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
53. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
54. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

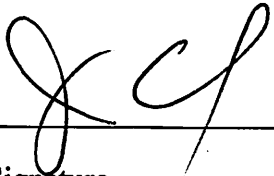
55. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

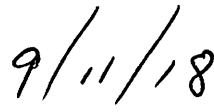
56. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of **Hoeganaes Corp., Docket No. CAA-04-2018-1500**(b) is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature



Date

Printed Name: James Carroll

Title: _____
Regional Director, HSE and Risk, PM

Address: GKN Hoeganaes
1001 Taylors Lane
Cinnaminson, NJ 08077

The foregoing Consent Agreement In the Matter of **Hoeganaes Corp., Docket No. CAA-04-2018-1500(b)** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:


Beverly H. Banister, Director

9/13/18 DATE

Air, Pesticides and Toxics Management Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

BEFORE THE ADMINISTRATOR

In the Matter of:

Hoeganaes Corp.,

Respondent.

Docket No. **CAA-04-2018-1500(b)**

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 17th day of September, 2018.

September 17, 2018
DATE

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order" in the Matter of Hoeganaes Corp., Docket No. CAA-04-2018-1500(b), were filed and copies of the same were mailed to the parties as indicated below.

Via Certified Mail, Return Receipt Requested

Mr. James Carroll
Regional Director, HSE and Risk, PM
GKN Hoeganaes
1001 Taylor Lane
Cinnaminson, New Jersey 08077

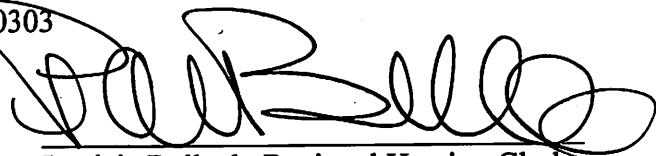
Elizabeth B. Partlow
Law Offices of Elizabeth B. Partlow, LLC
989 Knox Abbott Drive., Suite 101
Cayce, South Carolina 29033

Via EPA's internal mail

Phyllis Warrilow
U.S. EPA Region 4
Air, Pesticides and Toxics Management Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Lucia C. Mendez, Associate Regional Counsel
U.S. EPA Region 4
Office of Regional Counsel
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

9-18-18
DATE



Patricia Bullock, Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511