



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

APR 23 2009

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Kruszka, Plant Manager
Double Eagle Steel Coating Company
3000 Miller Road
Dearborn, MI 48120

Re: Double Eagle Steel Coating Company, Consent Agreement and Final Order
Docket No EPCRA-05-2009-0018

Dear Mr. Kruszka:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on APR 23 2009.

Please pay the civil penalty in the amount of \$93,392.00 in the manner prescribed in paragraphs 61 and 62, and reference you check with the billing document number 2750944E019 and the docket number EPCRA-05-2009-0018.

Your payments are due on May 26, 2009 [within 30 days of filing date].

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. If you have any questions concerning Section 313 of the Emergency Planning and Community Right-to-Know Act please contact Kenneth Zolnierczyk at (312) 353-9687. Please direct any legal questions to Robert H. Smith, Associate Regional Counsel, at (312) 886-0765. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

RECEIVED

APR 23 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No.
)	EPCRA-05-2009-0018
Double Eagle Steel Coating Company)	Proceeding to Assess a Civil Penalty Under
Dearborn, Michigan)	Section 325(c)(1) of the Emergency Planning
)	and Community Right-to-Know Act of 1986
Respondent.)	
<hr/>		

Consent Agreement and Final Order
Preliminary Statement

1. By letters dated and transmitted on August 28, 2008, and October 29, 2008, and pursuant to the U.S. Environmental Protection Agency's Self-Disclosure Policy, Double Eagle Steel Coating Company (DESCC or Respondent) disclosed to the U.S. Environmental Protection Agency, Region 5 (Complainant or EPA), potential violations of Sections 312 and 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) at its Dearborn, Michigan facility. 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 Co-Complainant is, by lawful delegation, the Chief of the Emergency Response Branch 1, EPA, Region 5.
3. The Co-Complainant is the Director of the Land and Chemicals Division, EPA, Region 5.

4. Respondent is Double Eagle Steel Coating Company, a joint venture of United States Steel Corporation and Severstal North America, Inc., doing business in the State of Michigan.

5. 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).

6. 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.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

8. This CAFO serves as notice that, based on DESCSC's voluntary disclosure of August 28, 2008, EPA has reason to believe that Respondent has violated EPCRA Sections 312 and 313, 42 U.S.C. §§ 11022 and 11023, and the regulations promulgated there under and codified at 40 C.F.R. Parts 370 and 372, governing the submission of emergency and hazardous chemical inventory forms and toxic chemical release inventories by owners and operators of covered facilities.

Jurisdiction and Waiver of Right to Hearing

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. 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

11. 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 submit to the state emergency response commission (SERC), community coordinator for the local emergency planning committee (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 EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

12. 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.

13. 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, MSDS.

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

15. Under 29 C.F.R. § 1910.1200(c) hazardous chemical is defined as any chemical which is a physical hazard or a health hazard.

16. 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; 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 in an amount in excess of an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. § 372.25 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 manufactured, processed, or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

17. 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 amount 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 for a toxic chemical otherwise used at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

18. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes EPA to assess a civil penalty of up to \$25,000 for each EPCRA Sections 312 and 313 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, to \$32,500 per day of violation for

violations that occurred after March 15, 2004 through January 12, 2009, and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

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

20. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 3000 Miller Road, Dearborn, Michigan (facility).

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

22. At all times relevant to this CAFO, Respondent had “10 or more full-time employees,” as defined at 40 C.F.R. § 372.3.

23. 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.

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

25. The facility has a SIC code of 3479, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

26. Sodium hydroxide, perlite, propane, and sulfuric acid are listed as a toxic and hazardous substance under Occupational Safety and Health Administration (OSHA) regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

27. Sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX,

USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake are considered as 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. Sodium hydroxide, perlite, propane, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake have a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

29. Sulfuric acid is an “extremely hazardous substance” according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

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

31. During at least one period of time in calendar year 2006, sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake were present at the facility in an amount equal to or greater than the minimum threshold level.

32. During at least one period of time in calendar year 2007, sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material,

zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake were present at the facility in an amount equal to or greater than the minimum threshold level.

33. OSHA requires Respondent to prepare, or have available, an MSDS for sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake.

34. Respondent was required to submit to the SERC, LEPC, and fire department a completed emergency and hazardous chemical inventory form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake on or before March 1, 2007 for calendar year 2006.

35. Respondent was required to submit to the SERC, LEPC, and fire department a completed emergency and hazardous chemical inventory form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake on or before March 1, 2008 for calendar year 2007.

36. At all times relevant to this CAFO, the Michigan Citizen-Community Emergency Response Coordinating Council was the SERC for Michigan under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

37. At all times relevant to this CAFO, the Wayne County Local Emergency Planning Committee was the LEPC for Wayne County, Michigan under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

38. At all times relevant to this CAFO, the Dearborn Fire Department was the fire department with jurisdiction over the facility.

39. Respondent submitted to the SERC, LEPC, and Dearborn Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake on October 10, 2008, for calendar year 2006.

40. Each day Respondent failed to submit to the SERC, LEPC, and Dearborn Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

41. Respondent submitted to the SERC, LEPC, and Dearborn Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake on October 9, 2008, for calendar year 2007.

42. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake by March 1, 2008, for calendar year 2007 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

43. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including sodium hydroxide, perlite, propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake by March 1, 2008, for calendar year 2007 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

44. Each day Respondent failed to submit to the Dearborn Fire Department a completed Emergency and Hazardous Chemical Inventory Form including sodium hydroxide, perlite,

propane, sulfuric acid, alloy electrolyte solution, citric acid anhydrous, ferrocote products, ferrous chloride, formula 503-20 additive, formula 57 DE, formula 613 caustic material, hydrated lime, hydrochloric acid, potassium chloride, USS PX, USSP 435-254 acidic material, zinc anodes, zinc chloride, zinc electrolyte solution, and zinc hydroxide filter cake by March 1, 2008, for calendar year 2007 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

45. During calendar year 2006, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, hydrochloric acid, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in the amount of at least 110,000 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.

46. Respondent was required to submit to the Administrator of EPA and to the State of Michigan a Form R for hydrochloric acid for calendar year 2006 by July 1, 2007.

47. Respondent did not submit to the Administrator of EPA and to the State of Michigan a Form R for hydrochloric acid for calendar year 2006 by July 1, 2007.

48. Respondent submitted Form R for hydrochloric acid to the Administrator of EPA and to the State of Michigan on October 10, 2008, for calendar year 2006.

49. Respondent's failure to submit timely a Form R for hydrochloric acid to the Administrator of EPA and to the State of Michigan for calendar year 2006 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

50. During calendar year 2006, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, lead compounds, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in the amount of at least 990.8 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. § 372.25.

51. Respondent was required to submit to the Administrator of EPA and to the State of Michigan a Form R for lead compounds for calendar year 2006 by July 1, 2007.

52. Respondent did not submit to the Administrator of EPA and to the State of Michigan a Form R for lead compounds for calendar year 2006 by July 1, 2007.

53. Respondent submitted Form R for lead compounds to the Administrator of EPA and to the State of Michigan on October 10, 2008, for calendar year 2006.

54. Respondent's failure to submit timely a Form R for lead compounds to the Administrator of EPA and to the State of Michigan for calendar year 2006 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

55. During calendar year 2006, Respondent's facility manufactured, as that term is defined at 40 C.F.R. § 372.3, zinc compounds, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in the amount of at least 3,200,000 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.

56. Respondent was required to submit to the Administrator of EPA and to the State of Michigan a Form R for zinc compounds for calendar year 2006 by July 1, 2007.

57. Respondent did not submit to the Administrator of EPA and to the State of Michigan a Form R for zinc compounds for calendar year 2006 by July 1, 2007.

58. Respondent submitted Form R for zinc compounds to the Administrator of EPA and to the State of Michigan on October 10, 2008, for calendar year 2006.

59. Respondent's failure to submit timely a Form R for zinc compounds to the Administrator of EPA and to the State of Michigan for calendar year 2006 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

60. EPA determined that Respondent's disclosure of the violations in this CAFO did not satisfy the criteria to receive a penalty reduction pursuant to EPA's Self-Disclosure Policy because they failed to provide a prompt disclosure (criteria 3). EPA calculated an initial penalty calculation for these violations of \$162,864, which did not include any reductions. In consideration of Respondent's cooperation, willingness to quickly settle, and other matters as justice may require, including Respondent's self-disclosure, EPA has determined that an appropriate civil penalty to settle this action is \$93,392. Out of this \$93,392 civil penalty, \$45,806 is allocated to the four violations of Section 312 of EPCRA, 42 U.S.C. § 11022, and \$47,586 is allocated to the three violations of Section 313 of EPCRA, 42 U.S.C. § 11023. In determining the penalty amount, Complainants 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. Complainants also considered for both the initial and settlement penalty calculations, 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* (September 30, 1999) and *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).

61. Within 30 days after the effective date of this CAFO, Respondent must pay a \$93,392.00 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for checks sent by regular U.S. postal service]

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

[for checks sent by express mail]

U.S. Bank
Government Lockbox 979077 EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
[Contact: Natalie Pearson at 314-418-4087]

The check must note the following: Double Eagle Steel Coating Company, the docket number of this CAFO and the billing document number 2750944E019

[for electronic funds transfer]

Respondent must pay the penalty 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 should read "D68010727
Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following: Double Eagle Steel Coating Company, the docket number of this CAFO and the billing document

number 2750944E019

[for online payments using debit or credit card]

Respondent must pay online using ACH debit or credit card. For payments online using ACH debit or credit card please visit www.pay.gov. Using the Search Public Forms option on the tool bar (left side of page), enter SFO 1.1 in the search field. Open the form and complete the information requested.

62. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

James Entzminger, (SC-6J)
Chemical Emergency Preparedness
and Prevention Section
EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Mr. Kenneth Zolnierzek, (LC-8J)
EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Robert H. Smith, (C-14J)
Office of Regional Counsel
EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

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

64. If Respondent does not timely pay 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.

65. 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, EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

67. This CAFO does not 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.

68. Respondent certifies that it is complying with Sections 312 and 313 of EPCRA, 42 U.S.C. §§ 11022 and 11023.

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

70. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policies for Section 312 and 313 of EPCRA.

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

72. 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.

73. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

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

In the Matter of:

Double Eagle Steel Coating Company, Dearborn, Michigan

Docket No. EPCRA-05-2009-0018

Double Eagle Steel Coating Company, Respondent

April 9, 2009
Date

David L. Kungler
Signature
Double Eagle Steel Coating Company

DAVID L. KRUSZKA
Print Name

Plant Manager - Double Eagle Steel
Title

U.S. Environmental Protection Agency, Complainant

4-15-09
Date

Jo-El
Jason H. El-Zein, Chief
Emergency Response Branch 1
Superfund Division

4-16-09
Date

Richard C. Karl
Richard C. Karl, Director
Superfund Division

4/21/09
Date

Margaret M. Guerriero
Margaret M. Guerriero, Director
Land and Chemical Division

In the Matter of:
Double Eagle Steel Coating Company, Dearborn, Michigan
Docket No. EPCRA-05-2009-0018

RECEIVED
APR 23 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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.

4/16/09
Date

Walter W. Kovalyck
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of:
Double Eagle Steel Coating Company, Dearborn, Michigan
Docket No. EPCRA-05-2009-0018

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PROTECTION AGENCY

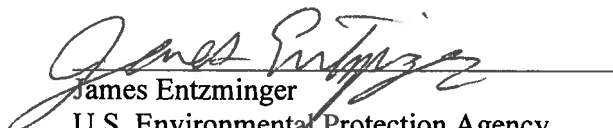
Certificate of Service

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Double Eagle Steel Coating Company's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

David A. Rockman, Attorney
Eckert Seamans Cherin & Mellott
U.S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

David Kruszka, Plant Manager
Double Eagle Steel Coating Company
3000 Miller Road
Dearborn, MI 48120

on the 23 day of April, 2009


James Entzminger
U.S. Environmental Protection Agency
Region 5