

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

**1650 Arch Street
Philadelphia, Pennsylvania 19103**

**U.S. EPA-REGION 3-RHC
FILED-29AUG2019PM12:11**

In the Matter of:

**Eagle Natrium LLC
2801 Post Oak Boulevard
Houston, Texas 77056,**

Respondent.

**15696 Energy Road
WV State Road 2
Proctor, West Virginia 26055,
Facility.**

**:
:
: U.S. EPA Docket Nos.
: CAA-03-2019-0125
: CERC-03-2019-0125
: EPCRA-03-2019-0125
:
: Proceeding under Sections 112(r) and 113 of
: the Clean Air Act, 42 U.S.C. §§ 7412(r) and
: 7413, Sections 103 and 109
: of the Comprehensive Environmental
: Response, Compensation and Liability Act,
: 42 U.S.C. §§ 9603 and 9609, and Sections
: 304 and 325 of the Emergency Planning and
: Community Right-to-Know Act,
: 42 U.S.C. §§ 11004 and 11045**

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Eagle Natrium LLC (“Respondent”) (collectively the “Parties”), pursuant to Section 113(d) of the Clean Air Act, as amended (the “CAA”), 42 U.S.C. § 7413(d), Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9609, and Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 113 of the CAA and Section 109 of CERCLA vest the President of the United States with the authority to assess penalties and undertake other actions required by this Consent Agreement, which authority has been delegated to the Administrator of the U.S. Environmental Protection Agency (“EPA”). Section 325 of EPCRA authorizes the Administrator of the EPA to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated these authorities to the Regional Administrator who, in turn, has delegated them to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty

claims against Respondent under the CAA, CERCLA and EPCRA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2), (7) and (8).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Clean Air Act

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

12. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.
13. Respondent is a limited liability company organized in the State of Delaware, with its headquarters located at 2801 Post Oak Boulevard, in Houston, Texas.
14. Respondent is the owner of a chemical manufacturing facility located at 15696 Energy Road, State Road 2, in Proctor, West Virginia (the "Facility").
15. As a limited liability company, Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and is subject to the assessment of civil penalties for the violations alleged herein.
16. Respondent is, and at times referred to herein was, the owner and operator of a "stationary source," as the term is defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.
17. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
18. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), known as the "General Duty Clause", the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.
19. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment, the threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7), 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.
20. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 (referred to as the "RMP Regulations"), which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The RMP Regulations require owners and operators of stationary sources to develop and implement

a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program must be described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

21. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130, or the date on which a regulated substance is first present above the threshold quantity in a process.
22. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source,” as “any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.”
23. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.
24. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), in 40 C.F.R. § 68.130.
25. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.
26. On January 24, 2017, EPA conducted an inspection of the Facility to determine whether Respondent was in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the RMP Regulations (the “CAA Inspection”).
27. Based on the observations of EPA inspectors during the CAA Inspection, EPA has determined that Respondent has the potential to store as much as 27,000,000 pounds of

the toxic chemical chlorine in the form of liquefied chlorine gas at the Facility in pressurized storage vessels, ranging in capacity from 180,000 pounds to 700,000 pounds.

Count I

Failure to Comply with RMP Mechanical Integrity and Process Safety Requirements

28. The allegations of Paragraphs 1 through 27 of this Consent Agreement are incorporated herein by reference.
29. Chlorine, Chemical Abstract Service (“CAS”) No. 7782-50-5, is a regulated substance listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), in the list of regulated substances compiled at 40 C.F.R. § 68.130.
30. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 C.F.R. § 7412(r)(7), and the RMP Regulations, 40 C.F.R. Part 68, at the Facility because Respondent is an owner or operator of a stationary source with more than a threshold quantity of a regulated substance, chlorine, present in a process at the Facility.
31. The threshold quantity for chlorine is 2,500 pounds, pursuant to 40 C.F.R. § 68.130, Table 1.
32. EPA’s Inspection revealed the following instances in which Respondent has not complied with Section 112(r)(7) of the CAA, and the RMP Regulations.

Mechanical Integrity

33. Section 68.73(d)(2) of the RMP Regulations requires owners and operators of stationary sources to ensure that inspections and tests are performed on process equipment, including piping systems, and that the inspections and tests follow recognized and generally accepted good engineering practices. 40 C.F.R. § 68.73(d)(2).
34. Section 68.73(e) of the RMP Regulations requires owners and operators of stationary sources to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation. 40 C.F.R. § 68.73(e).
35. The term “recognized and generally accepted good engineering practices” means practices as set forth in standards such as:
 - Chlorine Institute, Pamphlet 6, Piping Systems for Dry Chlorine, 16th ed. (March 2013) (“CI Pamphlet 6”);
 - Manufacturers Standardization Society of the Valve and Fittings Industry, Inc., Standard Practice 58, Pipe Hangers and Supports – Materials, Design, Manufacture, Selection, Application and Installation (2009) (“MSS SP-58-2009”);

- American Society of Mechanical Engineers, Code for Pressure Piping, B31 (2008) (“ASME B31.3-2008”); and
 - American Petroleum Institute 570, Piping Inspection Code: In-service Inspection, Rating, Repair and Alteration of Piping Systems, 3d ed. (Nov, 2009) (“API 570”).
36. Section 10 of CI Pamphlet 6 sets the safety standards applicable to the condition of chlorine piping as follows:
- Piping should be adequately supported to prevent sagging and resting on structural steel. ... Piping should be supported with hangers or pipe shoes that do not allow metal to metal wear or corrosion. CI Pamphlet 6, § 10.2.
 - Insulation must provide a sufficient moisture barrier to prevent corrosion under the insulation. CI Pamphlet 6, § 10.8.
37. The scope of MSS SP-58-2009 includes the recommended practice for the “selection and application of pipe hangers and supports for all service temperatures” and for the “detailing, fabrication and installation of pipe hangers and supports.” MSS SP-58-2009, § 1.4, 1.5. Section 5 addresses piping systems and includes the required support spacing for each type of piping system, requiring supports at 7-foot intervals (for ½ to 1¼ inch piping) and 10-foot intervals (for 2 to 3½ inch piping) to prevent sagging. *See* MSS SP-58-2009, at § 5.2.1, Tables 4 and A3. MSS SP-58-2009 also requires insulation of 15 pounds per square inch. *Id.*
38. Industry code ASME B.31.3-2008 sets forth engineering requirements deemed necessary for the safe design and construction of piping installations. ASME B31.3, Chapter 1, 300(c)(1). The “layout and design of piping and its supporting elements shall be directed toward preventing ... excessive stresses in the supporting (or restraining) elements” ASME B31.3-2008, § 321.1.1.
39. Section 5.5.4 of API 570 provides that external inspections are performed “to determine the condition of the outside of the piping, insulation system, painting and coating systems, and associated hardware; and to check for signs of misalignment, vibration, and leakage.” Further, external inspections shall include surveys for the conditions of piping hangers and supports, including “improper restraint conditions.” *Id.* In addition, API 570 provides that “piping shall be supported and guided so that: a) its weight is carried safely, b) it has sufficient flexibility for thermal expansion or contraction, and c) it does not vibrate excessively.” API 570, § 7.5.
40. Respondent’s February 2016 chlorine piping inspection report indicated “piping and elbows corroded, insulation damaged/unacceptable, sheathing missing/unacceptable, fasteners missing/unacceptable.” During the CAA Inspection, EPA inspectors observed some of the same conditions documented in Respondent’s February 2016 report. EPA inspectors observed chlorine piping leading to the chlorine railcar loading shed at the

Facility, including the Nos. 8, 10 and 11 Track Chlorine Lines. EPA inspectors observed that the piping was not supported at 7 to 10 foot intervals (depending on pipe size), was sagging, and was resting on steel angle supports; areas of piping were missing insulation and exhibited frost and rust; frost was visible on the insulation itself, which is a possible indication of vapor barrier failure and/or corrosion under the insulation; and elbows were covered with painter's tape.

41. While Respondent has implemented a program for managing chlorine piping consistent with certain practices under API 570, the condition of the chlorine piping at the Facility during the CAA Inspection, with its sagging pipes, lack of pipe supports at required intervals, pipes resting on steel supports, corroded elbows, damaged insulation, missing protective shields, and missing fasteners, is contrary to acceptable practices, as defined in CI Pamphlet 6, MSS SP-58-2009, ASME B31.3-2008, and API 570.
42. Respondent's failure to ensure the integrity of its chlorine piping by timely addressing unacceptable piping conditions to correct deficiencies that are outside acceptable limits is a violation of the mechanical integrity provisions of the RMP Regulations, 40 C.F.R. § 68.73(e).

Process Safety – Labeling of Chlorine Piping

43. Under the RMP Regulations, owners or operators of stationary sources must compile and maintain up-to-date safety information related to the regulated substances, processes, and equipment, including codes and standards used to design, build, and operate the process. See 40 C.F.R. § 68.48(a). Further, owners or operators must ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. See 40 C.F.R. § 68.48(b).
44. The two relevant “recognized and generally accepted good engineering practices” that should be consulted for the purpose of designing a program to meet the requirements of 40 C.F.R. § 68.48(b) for labeling of piping include the following:
 - American Society of Mechanical Engineers A13.1-2007, Scheme for the Identification of Piping Systems (“ASME A13.1”); and
 - National Fire Protection Association 55, Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks (2005 ed.) (“NFPA 55”).
45. Industry standard ASME A13.1-2007 provides that pipes containing hazardous materials must have legends:

This Standard considers a legend to be primary and explicit for identification of contents. Positive identification of the contents of a piping system shall be by lettered legend, giving the name of the contents in full or abbreviated form (see Table 1). Arrows shall be used to indicate direction of flow. Where flow can be in both directions, arrows

in both directions shall be displaced. Contents shall be identified by a legend with sufficient additional details such as temperature, pressure, etc. as are necessary to identify the hazard. ... Legends shall be applied closer to valves or flanges and adjacent to changes in direction, branches, and where pipes pass through walls or floors; and at intervals on straight pipe runs sufficient for identification. Identification may be accomplished by stenciling, the use of tape or markers. In any situation, the number and location of identification markers shall be based on the particular piping system.

ASME A13.1, § 3.1.

46. The other industry standard, NFPA 55, in the section dealing with compressed gases in piping systems, cross-references ASME 13.1-2007, providing that, except for piping with gas manufacturing plants, gas processing plants, refineries, and similar occupancies, "piping systems shall be marked in accordance with ASME 13.1-2007." Section 7.1.3.4 of NFPA 55 further provides:
- (1) Markings shall include the name of the gas and a direction-of-flow arrow.
 - (2) Piping that is used to convey more than one gas at various times shall be marked to provide clear identification and warning of the hazard.
 - (3) Markings for piping systems shall be provided at the following locations:
 - (a) At each critical process control valve
 - (b) At wall, floor, or ceiling penetrations
 - (c) At each change in direction
 - (d) At a minimum of every 20 ft (6.1 m) or fraction thereof throughout the piping run.
47. While Respondent had in place a Facility-specific, color-coded piping delineation system and practice, during the CAA Inspection, EPA inspectors observed that the chlorine piping was not marked with any legends.
48. Respondent's failure to label the chlorine piping as set forth in recognized and generally accepted good engineering practices is a violation of the process safety requirements in the RMP Regulations, 40 C.F.R. § 68.65(d)(2).
49. In failing to comply with Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the RMP Regulations, 40 C.F.R. § 68.65(d)(2), Respondent is subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).
50. On March 5, 2018, EPA issued an Administrative Settlement Agreement and Order on Consent, EPA Docket No. CAA-03-2018-0077DA ("Order") to Respondent requiring Respondent to address violations of Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7612(r)(1) and (7), regarding its storage of chlorine, and hydrogen, as discussed in

Count II below, at the Facility. The estimated completion date for the work under the Order is December 2019.

Count II
Failure to Comply with General Duty Clause Requirement
to Design and Maintain a Safe Facility

51. The allegations of Paragraphs 1 through 50 of this Consent Agreement are incorporated herein by reference.
52. Based on the observations of EPA inspectors during the CAA Inspection, EPA has also determined that the Facility produces hydrogen gas during the electrolysis process. Respondent uses as much as 88 pounds of hydrogen gas at any one time.
53. Hydrogen, CAS No. 1333-74-0, is an extremely hazardous flammable gas, which is also listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, Table 3, and thus is a regulated substance in accordance with CAA Section 112(r)(2), 42 U.S.C. § 7412(r)(2).
54. EPA's CAA Inspection revealed the following instance in which Respondent has not complied with the obligation under Section 112(r)(1) of the CAA to design and maintain a safe facility taking such steps as are necessary to prevent accidental releases.

Labeling of Hydrogen Piping

55. As the owner and operator of a stationary source, with respect to the use and storage of hydrogen gas, Respondent has a duty under the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), to design and maintain a safe facility to prevent the accidental release of this hazardous chemical to the air.
56. The relevant industry standard is National Fire Protection Association 2, Hydrogen Technologies Code, 2016 edition ("NFPA 2"). Chapter 7 of NFPA 2 contains a cross-reference to ASME A13.1 and the same exception for gas processing plants, *et al.*, in the subsection dealing with piping systems, and states:
 - (1) Markings shall include the name of the gas and a direction-of-flow arrow.
 - (2) Piping that is used to convey more than one gas at various times shall be marked to provide clear identification and warning of the hazard.
 - (3) Markings for piping systems shall be provided at the following locations:
 - (a) At each critical process control valve
 - (b) At wall, floor, or ceiling penetrations
 - (c) At each change in direction

(d) At a minimum of every 20 ft (6.1 m) or fraction thereof throughout the piping run.

NFPA 2, § 7.1.6.6.

57. While Respondent has in place a Facility-specific, color-coded piping delineation system and practice, during the CAA Inspection, EPA inspectors observed that the hydrogen piping was not marked with any legends, which is not compatible with industry codes and standards.
58. Respondent violated the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), to design and maintain a safe facility to prevent accidental releases of hazardous substances by failing to label the hydrogen piping at the Facility to provide the level of protection identified in industry standards.
59. In failing to comply with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), Respondent is subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

CERCLA

Count III

Failure to Immediately Notify the NRC of a Release

60. The allegations of Paragraphs 1 through 59 of this Consent Agreement are incorporated herein by reference.
61. As a limited liability company, Respondent is a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21); Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and is subject to the assessment of civil penalties for the violations alleged herein.
62. At all times relevant to this CAFO, Respondent has been in charge of the chemical manufacturing Facility, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
63. The Facility is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9); Section 329(4) of EPCRA, 42 U.S.C. § 11049(4); and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
64. Respondent is an “owner or operator” of the Facility as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and referenced in Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. §§ 355.2 and 355.30.

65. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of the EPA to publish a list of substances designated as hazardous substances, which, when released into the environment may present substantial danger to public health or welfare or to the environment, and to promulgate regulations establishing that quantity of any hazardous substance, the release of which shall be required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) (“Reportable Quantity” or “RQ”). The list of hazardous substances is codified at 40 C.F.R. § 302.4.
66. Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), requires the Administrator of EPA to publish a list of Extremely Hazardous Substances (“EHSs”) and to promulgate regulations establishing that quantity of any EHS the release of which shall be required to be reported under Section 304(a) through (c) of EPCRA, 42 U.S.C. § 11004(a) through (c), (“Reportable Quantity” or “RQ”). The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.
67. The State Emergency Response Commission (“SERC”) for the Facility is, and at all times relevant to this CAFO has been, the West Virginia Division of Homeland Security and Emergency Management, located at 1900 Kanawha Boulevard East, Building 1, Room EB-80, in Charleston, West Virginia.
68. The Local Emergency Planning Committee (“LEPC”) for the Facility is, and at all times relevant to this CAFO has been, the Marshall County Local Emergency Planning Committee, located at 601 7th Street in Moundsville, West Virginia.
69. At all times relevant to this CAFO, the Facility was a facility at which a hazardous chemical was produced, used or stored.
70. On August 25, 2015, EPA conducted an inspection of the Facility to determine Respondent’s compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA in response to a release of chlorine that was reported to have occurred on March 16, 2015, among other releases. During the inspection, EPA gathered information relevant to Respondent’s compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA. During and after the inspection, Respondent submitted information to EPA regarding its compliance with CERCLA and EPCRA.
71. Beginning at or around 7:17 p.m. on March 16, 2015 and continuing until 7:05 a.m. on March 17, 2015, approximately 1,019 pounds of chlorine was released from a chlorine production unit at the Facility (the “Release”). The release occurred because a hose had not been reconnected to the chlorine header after maintenance activities.
72. Chlorine is an extremely hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3, with an RQ of 10 pounds, as listed in 40 C.F.R. § 302.4.

73. The Release from the Facility constitutes a release of a hazardous substance in a quantity equal to or exceeding the RQ for that hazardous substance, requiring immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
74. The Release was not a “federally permitted release” as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).
75. Respondent first became aware that the Release was occurring at approximately 7:00 a.m. on March 17, 2015. At approximately 8:21 a.m. on March 17, 2015, Respondent calculated that 1,019 pounds of chlorine had been released.
76. Respondent reported the Release to the NRC at approximately 10:29 a.m. on March 17, 2015.
77. Respondent knew or should have known that the Release from the Facility was in a quantity equal to or exceeding its RQ, no later than 8:21 a.m. on March 17, 2015.
78. Respondent failed to immediately notify the NRC of the Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.
79. In failing to comply with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. Part 302, Respondent is subject to the assessment of penalties under Section 109(a) of CERCLA, 42 U.S.C. § 9609(a).

EPCRA

Count IV Failure to Immediately Notify the SERC of a Release

80. The allegations of Paragraphs 1 through 79 of this Consent Agreement are incorporated herein by reference.
81. Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the SERC immediately following the release of an EHS in an amount exceeding the RQ for such substance.
82. Chlorine is an EHS as listed in 40 CFR Part 355, Appendix A, with an RQ of 10 pounds.

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83. The Release from the Facility constituted a release of an EHS in a quantity equal to or exceeding the RQ for that EHS, requiring immediate notification of the SERC pursuant to Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b).
84. Respondent reported the Release to the SERC's West Virginia Spill Line at approximately 10:20 a.m. on March 17, 2015.
85. Respondent failed to immediately notify the SERC as soon as Respondent knew or should have known that a release of an EHS had occurred at the Facility in an amount equal to or exceeding the applicable RQ.
86. Respondent violated Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and the relevant regulations at 40 C.F.R. Part 355, Subpart C, by failing to immediately notify the SERC as soon as it had knowledge of the release of an EHS from the Facility in a quantity greater than the RQ.
87. In failing to comply with Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and 40 C.F.R. Part 355, Subpart C, Respondent is subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

Count V
Failure to Immediately Notify the LEPC of a Release

88. The allegations of Paragraphs 1 through 87 of this Consent Agreement are incorporated herein by reference.
89. The Release required immediate notification to the LEPC pursuant to Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and 40 C.F.R. Part 355, Subpart C.
90. Respondent reported the Release to the LEPC at approximately 10:02 a.m. on March 17, 2015.
91. Respondent failed to immediately notify the LEPC as soon as Respondent knew or should have known that a release of an EHS had occurred at the Facility in an amount equal to or exceeding the applicable RQ.
92. Respondent violated Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and the relevant regulations at 40 C.F.R. Part 355, Subpart C, by failing to immediately notify the LEPC as soon as it had knowledge of the release of an EHS from the Facility in a quantity greater than the RQ.
93. In failing to comply with Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and 40 C.F.R. Part 355, Subpart C, Respondent is subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

SETTLEMENT

94. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the following paragraph, and to performance of the Supplemental Environmental Project, as set forth in Paragraphs 107 through 116 below.

Civil Penalty

95. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **ONE HUNDRED EIGHTEEN THOUSAND ONE HUNDRED SEVENTY-FOUR DOLLARS (\$118,174)**, which total includes **EIGHTY-EIGHT THOUSAND FORTY DOLLARS (\$88,040)** for alleged violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r) ("CAA civil penalty"), **TEN THOUSAND FORTY-FIVE DOLLARS (\$10,045)** for alleged violations of Section 103 of CERCLA, 42 U.S.C. § 9603 ("CERCLA civil penalty"), and **TWENTY THOUSAND EIGHTY-NINE DOLLARS (\$20,089)** for alleged violations of Section 304(b) and (c) of EPCRA, 42 U.S.C. § 11004(b) and (c) ("EPCRA civil penalty"), which Respondent shall be liable to pay in accordance with the terms set forth below.
96. The CAA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).
97. The CERCLA civil penalty and the EPCRA civil penalty are based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C) and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), including, the following: the nature, circumstances, extent and gravity of the violation or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to 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), which reflects the statutory penalty criteria and factors set forth at Section 325(b)(1)(C) of EPCRA and Section 109(a)(3) of CERCLA, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

98. Payment of the civil penalty amount, and any associated interest, administrative fees, late payment penalties, and stipulated penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, CAA-CERC-EPCRA-03-2019-0125;
- b. All checks in payment of the CERCLA civil penalty shall be made payable to the "EPA-Hazardous Substances Superfund";
- c. All payments made by check in payment of the CERCLA civil penalty and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

- d. All checks in payment of the CAA civil penalty and the EPCRA civil penalty shall be made payable to the "United States Treasury";
- e. All payments made by check in payment of the CAA civil penalty and the EPCRA civil penalty and sent by regular mail shall be addressed and mailed to:

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

- f. For additional information concerning other acceptable methods of payment of the civil penalty amounts see:

<https://www.epa.gov/financial/makepayment>

- g. A copy of Respondent's checks or other documentation of payment of the penalties using the method selected by Respondent for payment shall be sent simultaneously to:

Cynthia T. Weiss
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street

Philadelphia, PA 19103-2029
weiss.cynthia@epa.gov

99. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
100. Payment of the CAA civil penalty, the CERCLA civil penalty and the EPCRA civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
101. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
102. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives – Case Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
103. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
104. Failure by the Respondent to pay the CERCLA civil penalty and the EPCRA civil penalty assessed by the Final Order in accordance with the terms of this CAFO may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C.

§ 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

105. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

Supplemental Environmental Project

106. The following Supplemental Environmental Project (“SEP”) is consistent with applicable EPA policy and guidelines, specifically EPA’s *Supplemental Environmental Projects Policy, 2015 Update*.

107. Respondent agrees to purchase portable handheld multi-gas detectors and associated equipment for nearby Local Emergency Planning Committees, as detailed in the SEP Proposal attached as Exhibit A hereto. Respondent shall deliver the portable handheld multi-gas detectors and associated equipment to the LEPCs within ninety (90) days from the effective date of this CAFO (“SEP Completion Deadline”).

108. Respondent’s total expenditure for installation of the SEP shall not be less than \$81,558, in accordance with the specifications set forth in the SEP Proposal. The SEP has been valued at \$80,647. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 112 below.

109. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulations; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

110. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

111. Respondent shall notify EPA Risk Management Coordinator Mary Hunt, P.E., at the address noted in Paragraph 113.a, below, when such implementation is complete. EPA may grant Respondent an extension of time to fulfill its SEP obligations if EPA determines, in its sole discretion, that, through no fault of Respondent, Respondent is unable to complete the SEP obligations within the time frame required by Paragraph 107 and, if extensions are granted, by this Paragraph. Requests for any extension must be made in writing within 48 hours of Respondent’s knowledge of any event, such as an unanticipated delay in obtaining governmental approvals, the occurrence of which renders the Respondent unable to complete the SEP within the required time frame (“force majeure event”), and prior to the expiration of the applicable SEP Completion

Deadline. Any such requests should be directed to Mary Hunt at the mail and email addresses noted in Paragraph 112.a below.

112. SEP Completion Report

- a. Respondent shall submit to EPA a SEP Completion Report via first class mail to Mary Hunt, P.E., U.S. EPA Region III, 1650 Arch Street (Mailcode 3ED12), Philadelphia, PA 19103, and via email, hunt.mary@epa.gov, within thirty (30) days of completing the SEP, as set forth in Paragraphs 107 to 108. The SEP Completion Report shall contain the following information:
 - (i) detailed description of the SEP as implemented;
 - (ii) correspondence from SEP recipient documenting receipt of equipment;
 - (iii) a description of any problems encountered and the solution thereto; and
 - (iv) itemized costs.
- b. Respondent shall sign the report required by this Paragraph and certify under penalty of law that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

- c. Respondent agrees that failure to submit the report required by this Paragraph 112 shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 115 below.
- d. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where a report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

113. Respondent agrees that EPA may inspect the locations at which the SEP is delivered at any time, subject to coordination with the LEPCs, in order to confirm that the SEP is

being undertaken in conformity with the representations made herein and as required by this CA/FO.

114. EPA Acceptance of SEP Completion Report

- a. Upon receipt of the SEP Completion Report, EPA may exercise one of the following options:
 - (i) notify the Respondent in writing that the SEP Completion Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional thirty (30) days to correct those deficiencies;
 - (ii) notify the Respondent in writing that EPA has concluded that the project has been satisfactorily completed; or
 - (iii) notify the Respondent in writing that EPA has concluded that the project has not been satisfactorily completed and seek stipulated penalties in accordance with Paragraph 115 herein.
- b. If EPA elects to exercise option (i) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached within this thirty (30) day period, EPA shall provide to the Respondent a written statement of its decision on the adequacy of the completion of the SEP, which shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CA/FO. In the event either the SEP is not completed as required herein or the SEP Completion Report is not submitted to EPA, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 115 herein.

115. Stipulated Penalties

- a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP described in Paragraphs 107, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs of the SEP required by Paragraph 108, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:
 - (i) Except as provided in subparagraphs (ii)-(iv) below, if the SEP has not been completed satisfactorily pursuant to this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of the mitigation value of the SEP, \$56,452.

- (ii) If a SEP is not completed in accordance with Paragraphs 107 to 108, above, but the Complainant determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.
 - (iii) If the SEP is completed in accordance with Paragraphs 107 to 108, above, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to EPA in the amount of \$8,155.
 - (iv) If the SEP is completed in accordance with Paragraphs 107 to 108, above, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.
 - (v) For failure to submit the SEP Completion Report required by Paragraph 112, above, Respondent shall pay a stipulated penalty in the amount of \$500.00 for each day after the report was originally due until the report is submitted.
- b. The determination of whether the SEP has been satisfactorily implemented and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement.
 - c. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties, in accordance with the provisions of Paragraph 98, above. Interest and late charges shall be paid as set forth in Paragraphs 101 through 104, above.

GENERAL SETTLEMENT CONDITIONS

116. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.

117. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information

provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

118. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is working towards compliance with the Administrative Settlement Agreement and Order on Consent, Docket No. CAA-03-2018-0077DA, which addresses the CAA violations alleged herein. The estimated compliance date is December 30, 2019.

OTHER APPLICABLE LAWS

119. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, 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 the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of CERCLA or EPCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

120. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under CERCLA and EPCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

EXECUTION /PARTIES BOUND

121. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that they are fully authorized by the Respondent to execute

In Re: Eagle Natrium LLC
EPA Docket Nos. CAA-CERC-EPCRA-03-2019-0125

this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

EFFECTIVE DATE

122. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.


ENTIRE AGREEMENT

123. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

In Re: Eagle Natrium LLC
EPA Docket Nos. CAA-CERC-EPCRA-03-2019-0125

For Respondent: EAGLE NATRIUM LLC

Date: 8/20/19


By: 
Jerry Mullens
Plant Manager

In Re: Eagle Natrium LLC
EPA Docket Nos. CAA-CERC-EPCRA-03-2019-0125

For the Complainant:


After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: AUG 28 2019

By: 
Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: AUG 28 2019

By: 
Cynthia T. Weiss
Sr. Assistant Regional Counsel
U.S. EPA – Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**Eagle Natrium LLC
2801 Post Oak Boulevard
Houston, Texas 77056,**

Respondent.

**15696 Energy Road
WV State Road 2
Proctor, West Virginia 26055,**

Facility.

U.S. EPA-REGION 3-RHC
FILED-23AUG2019PM12:11

**EPA Docket Nos. CAA-03-2019-0125
CERC-03-2019-0125
EPCRA-03-2019-0125**

FINAL ORDER

**Proceeding under Sections 112(r) and
113 of the Clean Air Act, 42 U.S.C. §§
7412(r) and 7413, Sections 103 and 109 of
the Comprehensive Environmental
Response, Compensation and Liability
Act, 42 U.S.C. §§ 9603 and 9609, and
Sections 304 and 325 of the Emergency
Planning and Community Right-to-Know
Act, 42 U.S.C. §§ 11004 and 11045**

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Eagle Natrium, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to [Sections 22.13(b) and 22.18(b)(2) and (3)]. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.


Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for CAA Section 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e), and 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 the statutory penalty factors set forth at Section 109(a)(3) of the Comprehensive Emergency Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9609(a)(3), and Section 325(b)(1)(C) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. 11045(b)(1)(3).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **ONE HUNDRED EIGHTEEN THOUSAND ONE HUNDRED SEVENTY-FOUR DOLLARS (\$118,174)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA, CERCLA and EPCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Aug 29, 2019
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

EXHIBIT A



Chase Tower, 17th Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information

Kathy.beckett@steptoe-johnson.com
340-353-8172

August 2, 2019

Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

RE: Eagle Natrium, LLC Facility, Proctor, WV

Dear Ms. Weiss,

Pursuant to negotiations and discussions concerning the resolution of the civil penalties associated with the alleged CAA violations and alleged CERCLA and EPCRA violations related to the Administrative Settlement Agreement and Order on Consent, Docket No. CAA-03-2018-0077DA issued on March 5, 2018, the following offer of settlement including a Supplemental Environmental Project (SEP) is submitted by Eagle Natrium LLC, a Westlake Company for consideration by EPA.

EPA proposed and Eagle Natrium LLC has agreed to a penalty settlement of the matter for \$174,626 consisting of \$130,065 for the three CAA violations and \$44,561 for the three CERCLA and EPCRA violations.

A. DESCRIPTION: Eagle Natrium LLC commits to pay a monetary penalty and conduct a SEP that qualifies within the category of Emergency Planning and Preparedness, pursuant to the 2015 EPA SEP Projects Policy, as follows:

- (1) Policy: An emergency planning and preparedness project provides assistance, such as computers and software, communication systems, chemical emission detection and inactivation equipment, HAZMAT equipment, or training, or a responsible state or local emergency response or planning entity.

Proposal: Purchase portable handheld multi-gas detectors that may be used for confined space monitoring, monitoring off-site impacts from chemical releases, etc. Specifically, the proposal includes: 18-MSA Altair 5X Multi-gas detectors; 9-MSA Altair 5X Docking/Charging stations; and 9-MSA Calibration gas cylinders. (See Attached Descriptions of Equipment).

- (2) Policy: Emergency planning and preparedness SEPs are acceptable where the primary impact of the project is within the same emergency planning district or state affected by the violations and there is no current federal financial assistance transaction that could fund the SEP.

Proposal: Provide for each county LEPC for Marshall and Wetzel, WV and Monroe, OH equal distribution of the above referenced emissions detection related equipment. These are LEPC's adjacent to the Natrium, WV facility and with which the facility has a working relationship. Eagle Natrium certifies that per representations from the Director of each agency¹, this equipment is not subject to an open federal financial assistant transaction (FFAT) with EPA or any other federal agency. The equipment will be available for use by the emergency management agencies and local fire departments.

- (3) Policy: Further, this type of SEP is allowable only where the following violations are alleged in the complaint: violations of EPCRA; reporting violations under CERCLA Section 103, 104(e), or 120, 42 U.S.C. §§9603, 9604(4), or 9620; violations of Section 112(r) of the Clean Air Act (CAA), 42 U.S.C. §7412(r); or violations of other emergency planning, spill, or release requirements.

Proposal: The alleged violations at issue concern CAA 112(r), CERCLA 103 and EPCRA.

- B. SCHEDULE FOR COMPLETION: Eagle Natrium LLC will place the order and deliver to each LEPC for Marshall, Wetzel and Monroe LEPCs within 90 days of final settlement.
- C. NEXUS TO ALLEGED VIOLATION AND PROJECT: The inspection of January 24, 2017 noted pipeline MIT concerns. The March 16, 2015 chlorine release and related inspection required immediate emissions assessments. For each event, the concern for pipeline MIT failure and/or other triggered release, LEPCs equipped with mobile emissions devices would have enhanced the implementation and enforcement of the CAA and CERCLA/EPCRA programs for emergency planning and preparedness. With such monitoring devices, real time information and data could have been obtained which would assist with the management of adverse impacts of detected emissions beyond the facility fence line to the public.
- D. ITEMIZED EQUIPMENT AND TOTAL COST:

18 MSA Altair 5X Multi-gas detectors (6 for each county)

¹ Phillip Keevert, Director, Monroe County, Ohio Emergency Management Agency; Thomas Hart, Director Marshall County, WV Emergency Management Agency; Steve Yoho, Director Wetzel County, WV Office of Emergency Management.

Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel
August 2, 2019
Page 3

- 9 MSA Altair 5X Docking/Charging Stations (3 for each county)
- 9 MSA Calibration gas cylinders (3 for each county)

Total = \$80,645.00

E. BENEFIT TO PUBLIC HEALTH AND THE ENVIRONMENT.

The emissions equipment will be provided to WV and OH LEPCs that are currently managing tremendous increase in industrial activity as the result of development of manufacturing, chemical and energy facilities along the Ohio River valley. The additional management obligations of the LEPCs will be enhanced by equipping them with multiple hand-held emissions detectors that are charged and calibrated.

F. PENALTY AND SEP

Eagle Natrium LLC proposes that the SEP of a value of \$80,645.00 mitigate the settlement penalty by 70% of the total cost which would reduce the monetary settlement penalty to \$118,174.00 (\$174,626 - \$56,452 = \$118,174).

Very truly yours,



Kathy G. Beckett
Counsel for Westlake Chemical

Enclosures

cc: Rebecca Moring, Counsel Westlake Chemical
Jerry Mullens Westlake Chemical
John Hirschfield Westlake Chemical

MSA
The Safety Company

ALTAIR® 5X Multigas Detector

With MSA XCell® Sensor Technology



IT'S WHAT'S
INSIDE
THAT COUNTS

Now with
advanced PID
for VOC detection

*Because every life has a **purpose...***

Save Time, Save Money, Save Lives

Building upon decades of sensor design experience, MSA has revolutionized sensor technology with design breakthroughs that improve performance.

- XCell exotic SO₂, NO₂, Cl₂, and NH₃ Sensors for expanded monitoring applications
- Sensor response and clear times in less than 15 seconds for most common sensor configurations
- Bump test in less than 15 seconds for most common sensor configurations
- Span calibration time of 60 seconds for most common sensor configurations
- Greater signal stability and repeatability under changing or extreme environmental conditions
- All XCell Sensors are capable of plug-and-play installation for easy reconfiguration,

With reliable, extended-life XCell Sensors, there's no need to replace sensors after two years.

- Typical life greater than four years for combustible, O₂, CO/H₂S, NO₂, and SO₂ sensors
- Typical life greater than three years for NH₃ and Cl₂ sensors
- Combustible sensor proprietary operating mode helps maintain poison-resistance throughout sensor life
- End-of-sensor-life warning gives advanced notice to user, reducing service outages

Three-year back-to-back instrument warranty includes CO/H₂S/O₂/LEL/SO₂, NO₂ XCell and IR sensors

**Two-year warranty on NH₃ and Cl₂;
minimum 12-month warranty on other sensors**

Count on the ALTAIR 5X Multigas Detector

Exclusive MotionAlert™ and InstantAlert™ features make the ALTAIR 5X Multigas Detector ideal for applications such as confined space monitoring. **MotionAlert** feature activates when a user becomes disabled and motionless, quickly alerting others as to the disabled user's location. And with a simple push of a button, **InstantAlert** feature enables users to manually warn others of potentially hazardous situations.

The ALTAIR 5X Detector is the long-life leader. To prove it, the instrument comes with a full three-year warranty,* an entire year longer than the industry average, so that you can depend upon the ALTAIR 5X Detector to withstand the punishment that other portable gas detectors can't.



Online Training and Product Simulation



MSA's online training and Web content include the ALTAIR 5X Multigas Detector simulator that takes viewers through instrument operation. This tool is found at www.msasafety.com/altair5x.

MSA-U® Training Center is a feature-rich online training center that offers specific care and use training for the ALTAIR 5X Detector. Detailed training reports are available for managers, while an end-of-course quiz ensures effective training with feedback on incorrect test answers. Visit www.MSAafety.com/msau.

* Three-year warranty is for most common sensor configurations.

IT'S WHAT'S INSIDE THAT COUNTS

WORKERS who face potentially hazardous situations deserve the best protection available. At MSA, we work tirelessly to build smarter, better gas detection instruments upon which people of the world rely. First we introduced MSA's advanced technology with the ALTAIR 4X Multigas Detector with XCell Sensors. Now we're proud to offer the most advanced sensor technology available in a six-gas portable instrument:

the ALTAIR 5X Multigas Detector with XCell Sensor Technology and PID option.

Built upon Durability

The ALTAIR 5X Multigas Detector for LEL, O₂ and toxic gas detection is as tough and functional as it looks. A rugged, rubberized polycarbonate housing provides unsurpassed durability, including the ability to survive a 10-foot drop. Inside, a field-proven integral pump provides consistent gas flow without the concerns of externally-attached components. Ergonomic design, glove-friendly buttons and high-contrast display make the ALTAIR 5X Multigas Detector easy to use for all applications.

Powered by Performance

Toughness and durability are only part of the story. The real strength of the ALTAIR 5X Multigas Detector comes from state-of-the-art sensor technology. By miniaturizing sensor-controlling electronics and placing them inside the sensor itself, MSA XCell Sensors offer superior stability, accuracy, repeatability, and a typical life of more than double the industry average.

MSA XCell Sensors are a breakthrough in chemical and mechanical sensor design, enabling faster response and span calibration times, saving you time, calibration gas, maintenance costs, and in turn, money. But most importantly, saving seconds in response time can also mean saving lives.

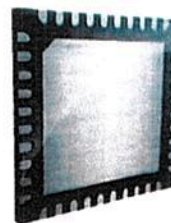
In addition to MSA XCell Sensors, the ALTAIR 5X Detector can be equipped with advanced PID options for VOC detection. Our wide variety of IR sensors covers many gases and ranges including CO₂.

Flexibility & Connectivity to Meet Your Needs

MSA's ALTAIR 5X Multigas Detector is configurable with either high-resolution color or monochrome LCD display with 18 built-in languages. MSA's Logo Express® Service is available to customize the color display. Interchangeable plug-and-play slots for MSA XCell Sensors indicated means that up to six gases can be monitored simultaneously.

The ALTAIR 5X Detector is fully compatible with the MSA GALAXY® GX2 Automated Test System and MSA Link™ Pro and MSA Link Software to efficiently manage your entire fleet.

XCell[®]
SENSORS



ADDING MICROELECTRONICS inside the sensors provides more control and higher performance than previous generations.



MSA XCELL SENSORS are a breakthrough in chemical and mechanical sensor design, enabling faster response and span calibration times.

ALTAIR 5X Multigas Detector Features

FULLY COMPATIBLE WITH
MSA LINK AND LINK PRO
SOFTWARE AND MSA
GALAXY GX2 TEST SYSTEM

VARIETY OF OPTIONAL
MSA INFRARED SENSORS

ROBUST INTEGRAL PUMP
FOR CONSISTENT FLOW AND
IMPROVED DURABILITY

HIGH CONTRAST COLOR OR
MONOCHROME DISPLAY

ADVANCED OPTIONAL
VOC DETECTION

18 LANGUAGE OPTIONS

LARGE BUTTONS FOR EASY
OPERATION

ADVANCED MOTIONALERT
AND INSTANTALERT
FEATURES

HIGH PERFORMANCE
MSA XCELL SENSORS

BLUETOOTH
WIRELESS CONNECTIVITY

24-HOUR
BUMP CHECKMARK

XCELL SENSOR
END-OF-LIFE INDICATOR

DURABLE, RUBBERIZED
HOUSING FOR SECURE GRIP



MSA-exclusive feature

MSA

The Safety Company

GALAXY[®] GX2 Automated Test System

SIMPLICITY COUNTS

MSA's New GALAXY GX2 Automated Test System / Advanced Safety Management... Effortless Operation

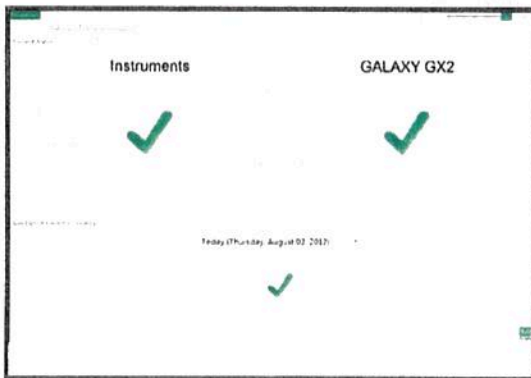


Advanced MSA Link Pro Software

Analyze All Data, Any Time

MSALink Pro Software lets you easily and proactively manage your gas detection fleet. Program offers efficient setup and configuration with dashboard alerts as to all conditions, as well as calibration gas and expiration warnings. Query data, print or save reports including gas exposures incidents; system can be set up to automatically send email exposure alerts. Generate session logs, including periodic as well as calibration and GALAXY GX2 System bank data. Program sends scheduled emails from master test stand based upon detector conditions and events. Directly input your data and filter results live.

View test and exposure data, session and periodic logs at a glance. Dashboard displays live status of GALAXY system test stand banks.



Live filtering can be viewed, printed and saved as PDF document.

dashboard - Test management

session log system log periodic log expiration GALAXY GX2

Serial No.	Instrument	Serial No.	Instrument	Serial No.	Instrument	Serial No.	Instrument	Serial No.	Instrument
10000001	ALTAIR 4X	10000002	ALTAIR 4X	10000003	ALTAIR 4X	10000004	ALTAIR 4X	10000005	ALTAIR 4X
10000006	ALTAIR 4X	10000007	ALTAIR 4X	10000008	ALTAIR 4X	10000009	ALTAIR 4X	10000010	ALTAIR 4X
10000011	ALTAIR 4X	10000012	ALTAIR 4X	10000013	ALTAIR 4X	10000014	ALTAIR 4X	10000015	ALTAIR 4X
10000016	ALTAIR 4X	10000017	ALTAIR 4X	10000018	ALTAIR 4X	10000019	ALTAIR 4X	10000020	ALTAIR 4X
10000021	ALTAIR 4X	10000022	ALTAIR 4X	10000023	ALTAIR 4X	10000024	ALTAIR 4X	10000025	ALTAIR 4X
10000026	ALTAIR 4X	10000027	ALTAIR 4X	10000028	ALTAIR 4X	10000029	ALTAIR 4X	10000030	ALTAIR 4X
10000031	ALTAIR 4X	10000032	ALTAIR 4X	10000033	ALTAIR 4X	10000034	ALTAIR 4X	10000035	ALTAIR 4X
10000036	ALTAIR 4X	10000037	ALTAIR 4X	10000038	ALTAIR 4X	10000039	ALTAIR 4X	10000040	ALTAIR 4X
10000041	ALTAIR 4X	10000042	ALTAIR 4X	10000043	ALTAIR 4X	10000044	ALTAIR 4X	10000045	ALTAIR 4X
10000046	ALTAIR 4X	10000047	ALTAIR 4X	10000048	ALTAIR 4X	10000049	ALTAIR 4X	10000050	ALTAIR 4X
10000051	ALTAIR 4X	10000052	ALTAIR 4X	10000053	ALTAIR 4X	10000054	ALTAIR 4X	10000055	ALTAIR 4X
10000056	ALTAIR 4X	10000057	ALTAIR 4X	10000058	ALTAIR 4X	10000059	ALTAIR 4X	10000060	ALTAIR 4X
10000061	ALTAIR 4X	10000062	ALTAIR 4X	10000063	ALTAIR 4X	10000064	ALTAIR 4X	10000065	ALTAIR 4X
10000066	ALTAIR 4X	10000067	ALTAIR 4X	10000068	ALTAIR 4X	10000069	ALTAIR 4X	10000070	ALTAIR 4X
10000071	ALTAIR 4X	10000072	ALTAIR 4X	10000073	ALTAIR 4X	10000074	ALTAIR 4X	10000075	ALTAIR 4X
10000076	ALTAIR 4X	10000077	ALTAIR 4X	10000078	ALTAIR 4X	10000079	ALTAIR 4X	10000080	ALTAIR 4X
10000081	ALTAIR 4X	10000082	ALTAIR 4X	10000083	ALTAIR 4X	10000084	ALTAIR 4X	10000085	ALTAIR 4X
10000086	ALTAIR 4X	10000087	ALTAIR 4X	10000088	ALTAIR 4X	10000089	ALTAIR 4X	10000090	ALTAIR 4X
10000091	ALTAIR 4X	10000092	ALTAIR 4X	10000093	ALTAIR 4X	10000094	ALTAIR 4X	10000095	ALTAIR 4X
10000096	ALTAIR 4X	10000097	ALTAIR 4X	10000098	ALTAIR 4X	10000099	ALTAIR 4X	10000100	ALTAIR 4X

dashboard - reports - Test management

GALAXY GX2 - Calibration - Instrument Filter

Instrument	Serial No.	Instrument	Serial No.	Instrument	Serial No.	Instrument	Serial No.	Instrument	Serial No.
GALAXY GX2 1	10000001	GALAXY GX2 2	10000002	GALAXY GX2 3	10000003	GALAXY GX2 4	10000004	GALAXY GX2 5	10000005
GALAXY GX2 6	10000006	GALAXY GX2 7	10000007	GALAXY GX2 8	10000008	GALAXY GX2 9	10000009	GALAXY GX2 10	10000010
GALAXY GX2 11	10000011	GALAXY GX2 12	10000012	GALAXY GX2 13	10000013	GALAXY GX2 14	10000014	GALAXY GX2 15	10000015
GALAXY GX2 16	10000016	GALAXY GX2 17	10000017	GALAXY GX2 18	10000018	GALAXY GX2 19	10000019	GALAXY GX2 20	10000020
GALAXY GX2 21	10000021	GALAXY GX2 22	10000022	GALAXY GX2 23	10000023	GALAXY GX2 24	10000024	GALAXY GX2 25	10000025
GALAXY GX2 26	10000026	GALAXY GX2 27	10000027	GALAXY GX2 28	10000028	GALAXY GX2 29	10000029	GALAXY GX2 30	10000030
GALAXY GX2 31	10000031	GALAXY GX2 32	10000032	GALAXY GX2 33	10000033	GALAXY GX2 34	10000034	GALAXY GX2 35	10000035
GALAXY GX2 36	10000036	GALAXY GX2 37	10000037	GALAXY GX2 38	10000038	GALAXY GX2 39	10000039	GALAXY GX2 40	10000040
GALAXY GX2 41	10000041	GALAXY GX2 42	10000042	GALAXY GX2 43	10000043	GALAXY GX2 44	10000044	GALAXY GX2 45	10000045
GALAXY GX2 46	10000046	GALAXY GX2 47	10000047	GALAXY GX2 48	10000048	GALAXY GX2 49	10000049	GALAXY GX2 50	10000050
GALAXY GX2 51	10000051	GALAXY GX2 52	10000052	GALAXY GX2 53	10000053	GALAXY GX2 54	10000054	GALAXY GX2 55	10000055
GALAXY GX2 56	10000056	GALAXY GX2 57	10000057	GALAXY GX2 58	10000058	GALAXY GX2 59	10000059	GALAXY GX2 60	10000060
GALAXY GX2 61	10000061	GALAXY GX2 62	10000062	GALAXY GX2 63	10000063	GALAXY GX2 64	10000064	GALAXY GX2 65	10000065
GALAXY GX2 66	10000066	GALAXY GX2 67	10000067	GALAXY GX2 68	10000068	GALAXY GX2 69	10000069	GALAXY GX2 70	10000070
GALAXY GX2 71	10000071	GALAXY GX2 72	10000072	GALAXY GX2 73	10000073	GALAXY GX2 74	10000074	GALAXY GX2 75	10000075
GALAXY GX2 76	10000076	GALAXY GX2 77	10000077	GALAXY GX2 78	10000078	GALAXY GX2 79	10000079	GALAXY GX2 80	10000080
GALAXY GX2 81	10000081	GALAXY GX2 82	10000082	GALAXY GX2 83	10000083	GALAXY GX2 84	10000084	GALAXY GX2 85	10000085
GALAXY GX2 86	10000086	GALAXY GX2 87	10000087	GALAXY GX2 88	10000088	GALAXY GX2 89	10000089	GALAXY GX2 90	10000090
GALAXY GX2 91	10000091	GALAXY GX2 92	10000092	GALAXY GX2 93	10000093	GALAXY GX2 94	10000094	GALAXY GX2 95	10000095
GALAXY GX2 96	10000096	GALAXY GX2 97	10000097	GALAXY GX2 98	10000098	GALAXY GX2 99	10000099	GALAXY GX2 100	10000100

System offers direct data input, live filtering, test and exposure queries, and detailed reports.

MSA
The Safety Company

GALAXY GX2 Test Report

Test Date/Time: 21 May 2012 02:57:00 PM

Test Type: Calibration Instrument: ALTAIR 4X
 Test Result: Passed Serial Number: 14
 GX2 SN: 1 User: SAM
 Company: Company Department: ENG

Instrument Set Points:

Sensor	Low	High	STEL	TWA	Range
COMB	10 % LEL	20 % LEL	0 % LEL	0 % LEL	0-100 % LEL
O2	19.5 %vol	23 %vol	0 %vol	0 %vol	0-30 %vol
CO	25 ppm	100 ppm	100 ppm	25 ppm	0-2000 ppm
H2S	10 ppm	15 ppm	15 ppm	10 ppm	0-200 ppm

Test Results:

Sensor	Target Value	Found Value	Test Result	Notes
COMB	58 % LEL	58 % LEL	Passed	Methane at % LEL Passano

Print and save detailed calibration, bump test and exposure reports.

SIMPLICITY COUNTS

The new **GALAXY GX2 Automated Test System** provides simple and intelligent testing and calibration of ALTAIR PRO Single-Gas Detectors, as well as ALTAIR 4X and ALTAIR 5X Multigas Detectors, driven by the most advanced technology available in any portable gas detector: MSA XCell® Sensors.

This easy-to-use automated test stand offers high performance as either a stand-alone unit or an integrated portable detector management system, enabling total data access and control of MSA's ALTAIR Gas Detector fleet. Once any ALTAIR Family Gas Detector is placed within the GALAXY GX2 System, it can be tested, calibrated and charged automatically.* Flexibility allows for up to 10 test stations, four cylinder holders and multi-unit charger within one GALAXY GX2 System detector bank.

** Contact your local sales representative regarding availability.*

Ease of Use

Calibrate & Test Effortlessly

- Easy setup, simple use with touch-free testing.
- Color touch screen enhances user experience at the test stand.
- Can be used with a PC or as a stand-alone system, the perfect solution for large fleet end users, as well as for smaller applications.
- Automated test system and MSA Link™ Software (transfers portable gas detector records to a connected PC) provided as standard in many commonly spoken languages.
- Your ALTAIR 4X and ALTAIR 5X Multigas Detectors are always ready for use.* If you're faced with an urgent, short-notice situation, these units are ready for deployment, ideal for emergency applications.

Cost of Ownership

Save Time, Save Gas & Save Money

- Exceeds 50% reduction in cost of ownership, including calibration gas expenses when combined with high-performance MSA XCell Sensors.
- Faster total testing of ALTAIR Family Gas Detectors.
- Test up to 10 gas detectors simultaneously in the time most competitive systems take to test one device.
- RFID-tagged calibration gas cylinders to help ensure use of correct gas.

Proactive Safety

Command, Control & Communicate

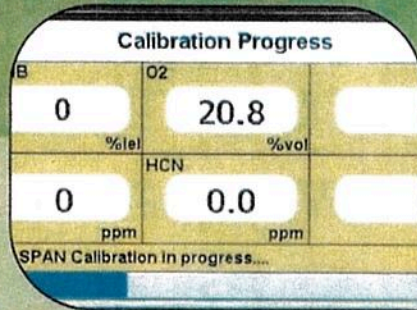
- With MSA Link Pro Software, you can manage safety by providing real-time information and notifications via email and bump tests.
- Calibration gas availability provided by the GALAXY GX2 System via advanced MSA XCell Sensors.
- Print calibration sheets to provide easy access to records.
- Query the system via email and then email reports.

** Contact your local sales representative regarding availability.*

MSA ALTAIR®
Most advanced

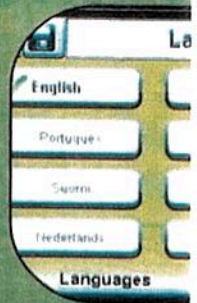
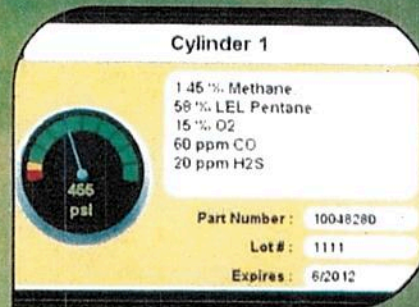
Color touch screen for ease of setup and viewing; no touch operation is needed to calibration or bump test

Clear and intuitive navigation via large touch buttons and scrolling arrows. When test completes, users view results on test stand popup screen and detailed information on PC dashboard.



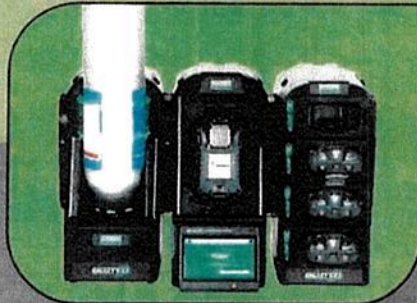
RFID automated calibration gas setup, status alerts and traceability

Gas cylinder information necessary for successful calibration is automatically entered when using RFID-tagged gas cylinders, providing users with exceptionally easy setup. Onscreen gas cylinder pressure gauge shows multiple cylinder status simultaneously.



Global platform
Many language

18 languages
customers globally
via onscreen menu
than English are the



Visual indicators on GALAXY GX2 System and software

Status at a glance is provided through various light indicators: test stand pass/fail LED, charging progress LEDs on multi-unit charger and lighted cylinder band on electronic cylinder holder for low gas and expiration date warning display.



MSA Link Pro and MSA Link Software

Redesigned software interface offers efficient setup; configure every detector's set points quickly and save settings. Overdue calibration and bump test email notifications are delivered via MSA Link Pro Software and an active network connection. Master test stand sends scheduled emails based upon detector conditions and events.



Significant cost ownership reduction

System offers
in cost of ownership
gas expenses
performance MSA
in faster total
Gas Detectors

Configure
Software, proactively
addressing gas exposure
missing or failed calibrations

Expiration warnings
ALAXY GX2 System and
Link Pro Software.

Alerts for gas detectors
and fast user information.

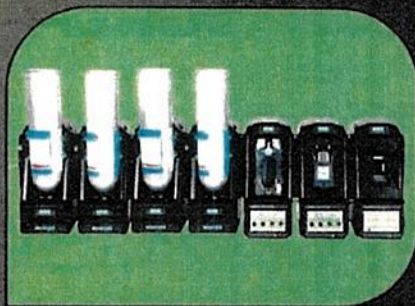
Alerts for gas exposures,
responses to users.

THE MSA COMMITMENT. FROM THE LATEST IN SENSOR TECHNOLOGY TO INSTRUMENT DESIGN AND MANUFACTURING, MSA HAS THE CAPABILITIES AND EXPERTISE TO SUPPORT YOUR PORTABLE GAS DETECTION CHALLENGES.

www.MSAafety.com Keyword: GalaxyGX2 | 1.800.MSA.2222

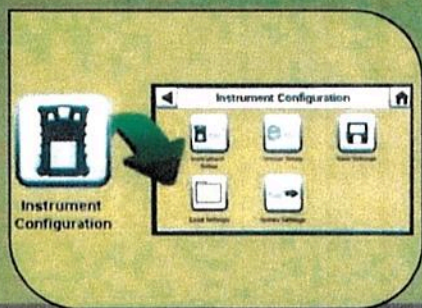
Simultaneous testing of up to 10 gas detectors

Calibrate up to 10 gas detectors simultaneously in less time than it takes most competitive units to test one. Patented gas flow process increases pressure from demand flow regulator to deliver consistent gas flow from one to 10 units. Connect up to 10 test stands and four cylinder holders to perform simultaneous tests.



Securely configure gas detectors at the touch of a button

The GALAXY GX2 Automated Test System allows users to configure many gas detector and cylinder settings at the test stand, settings that can be saved to a reusable file. Settings are stored on a digital-secure USB; no gas detector setting files are stored locally.



MSA XCell Sensor Technology

The GALAXY GX2 Automated Test System is optimized for use with MSA's high performance XCell Sensors. Sensors offer end-of-sensor-life warning, typical life greater than four years for combustible, O₂, CO/H₂S, and SO₂ sensors and greater than three years for NH₃ and Cl₂ sensors. Bump test in less than 15 seconds, span calibration time of 60 seconds and sensor response and clear times in less than 15 seconds for most common sensor configurations.

Your MSA multigas detectors are always ready for use*

Your ALTAIR 4X and ALTAIR 5X Multigas Detectors are available to use immediately. If you're faced with an urgent, short-notice situation, these units are ready for deployment, ideal for emergency applications.



*Contact your local sales representative regarding availability.

GALAXY GX2 System Ordering Information

GALAXY GX2 System Test Stand

	1 VALVE (for use with 1 calibration gas cylinder)		4 VALVE (for use with 1-4 calibration gas cylinders)	
	Charging*	No-charging	Charging*	No-charging
ALTAIR / ALTAIR PRO Single-Gas Detector	-	10128644	-	10128643
ALTAIR 4/4X Multigas Detector	10128630	10128642	10128629	10128641
ALTAIR 5/5X Multigas Detector	10128626	10128628	10128625	10128627

* Contact your local sales representative regarding availability.

The GALAXY GX2 System test stand comes with pre-configured plugs, barbs, fresh air filter, power supply with corresponding plug, spare parts kit (gas tubing, barbs and plugs), Ethernet cable (short cable for connection between test stands), and screen protector. Please see ordering information below for further system components, including electronic cylinder holder (includes regulator) or non-electronic cylinder holder (without regulator), MSA Link Pro Software, digital secure USB key, end cap, and multi-unit charger.

Accessories

P/N	Description
10105756	Electronic cylinder holder
10125135	Non-electronic cylinder holder
10127111	4 GB SD card
10123938	MSA Link Pro Software key
10123937	Digital secure USB key
10125907	End cap
10127422	ALTAIR 4/4X Detector Multi-unit Charger, NA
10127427	ALTAIR 5/5X Detector Multi-unit Charger, NA
10127112	Laminated quick start guide
10127518	12" (TBR) Ethernet cable for test stand to test stand connection
10126657	DIN rail clip kit (2 clips & screws per kit)
10062364	Type Omega DIN Rail 0.5m, perforated, steel, zinc-plated
10062365	Type Omega DIN Rail 1m, perforated, steel, zinc-plated
10062366	Type Omega DIN Rail 2m, perforated, steel, zinc-plated
10082834	USB IR dongle (for use with MSA Link Software)
10034391	Demand flow regulator (universal)
710289	Large capacity (<3000 psi) demand regulator
10124286	NA power supply (1 of 2)
10127146	NA power cord (2 of 2)
10126268	Vehicle power adapter
10127808	Printer - detector or receipt sticker
10126437	Detector sticker label roll
10126138	Receipt & sticker label roll
10145138	Printer ribbon

Calibration Gas

P/N	Description
10048280	Calibration gas cylinder (34L) 1.45% CH ₄ , 15% O ₂ , 60 ppm CO, 20 ppm H ₂ S
10045035	Calibration gas cylinder (54L) 1.45% CH ₄ , 15% O ₂ , 60 ppm CO, 20 ppm H ₂ S
10117738	Calibration gas cylinder (58L) 1.45% CH ₄ , 15% O ₂ , 60 ppm CO, 20 ppm H ₂ S, 10 ppm SO ₂
10098855	Calibration gas cylinder (34L) 1.45% CH ₄ , 15% O ₂ , 60 ppm CO, 20 ppm H ₂ S, 10 ppm SO ₂
10103262	Calibration gas cylinder (58L) 1.45% CH ₄ , 15% O ₂ , 60 ppm CO, 20 ppm H ₂ S, 2.5% CO ₂

Technical Specifications

Operating Temperature	GALAXY GX2 System	0-40°C
Power Input	Power module	100-240 VAC, 47-63 Hz
	Optional vehicle module	9-32 VDC
Physical Characteristics	Test stand	Height: 11.80" (299.72 mm)
		Width: 6.50" (165.10 mm)
		Depth: 7.90" (200.66 mm)
	Cylinder holder	Material: acrylonitrile butadiene ABS
		Height: 11.80" (299.72 mm)
		Width: 6.50" (165.10 mm)
Multi-unit charger	Depth: 6.10" (154.94 mm)	
	Material: acrylonitrile butadiene ABS	
	Height: 11.80" (299.72 mm)	
	Width: 6.50" (165.10 mm)	
		Depth: 6.44" (163.58 mm)
		Material: acrylonitrile butadiene ABS

Note: This bulletin contains only a general description of the products shown. While uses and performance capabilities are described, under no circumstances shall the products be used by untrained or unqualified individuals and not until the product instructions including any warnings or cautions provided have been thoroughly read and understood. Only they contain the complete and detailed information concerning proper use and care of these products.



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Fax +49 (0) 306886-1558



MSA
The Safety Company

In the Matter of:

**Eagle Natrium, LLC
2801 Post Oak Boulevard
Houston, Texas 77056,**

**U.S. EPA Docket Nos.
CAA-03-2019-0125
CERC-03-2019-0125
EPCRA-03-2019-0125**

Respondent.

**15696 Energy Road
WV State Route 2
Proctor, West Virginia 26055,**

**Proceeding under Sections 112(r) and 113 of
the Clean Air Act, 42 U.S.C. §§ 7412(r) and
7413, Sections 103 and 109 of the
Comprehensive Emergency Response,
Compensation and Liability Act, 42 U.S.C. §§
9603 and 9609, and Sections 304 and 325
of the Emergency Planning and Community
Right-to-Know Act, 42 U.S.C. §§ 11004 and
11045**

Facility.

CERTIFICATE OF SERVICE

I certify that on **AUG 29 2019**, the original and one (1) copy of the foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via UPS Next Day Delivery, to:

Kathy Beckett, Esquire
Steptoe & Johnson PLLC
Chase Tower, 17th Floor
707 Virginia Street East
Charleston, WV 25301

Copies served via Hand Delivery or Inter-Office Mail to:

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Sr Assistant Regional Counsel
ORC – 3RC20
U.S. EPA, Region III
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Philadelphia, PA 19103

Mary Hunt
Enforcement Officer
ECAD – 3ED12
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

Theresa Gallagher
Enforcement Officer
ECAD – 3ED12
U.S. EPA, Region III

1650 Arch Street
Philadelphia, PA 19103

Dated: AUG 29 2019

Beverly Esposito

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBERS: 70080500000157528538