



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:)
)
Gambone Steel Company, Inc.,)
545 Foundry Road)
Eagleville, Pennsylvania 19403)
)
Respondent.)
)
Gambone Steel Company, Inc.,)
545 Foundry Road)
Eagleville, Pennsylvania 19403)
)
Facility.)
)
)
)

EPA Docket No.: EPCRA-03-2012-0001

Proceedings Pursuant to Section 312, and
325 of the Emergency Planning and Community
Right-to-Know Act of 1986, 42 U.S.C. §§
11045

REGIONAL HEARING OFFICER
EPA REGION III, PHILADELPHIA, PA

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CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement and Final Order is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and under the authority provided by 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 ("Part 22"). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CA/FO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

FINDINGS OF FACT

1. Respondent is a Pennsylvania corporation with its principal place of business located at 545 Foundry Road, Eagleville, Pennsylvania 19403.

2. As a corporation, Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and 40 C.F.R. § 370.66.

3. Beginning in or about 1962, continuing through the date of filing this CA/FO, and at all times relevant to this CA/FO, Respondent has owned and operated the Gambone Steel Company, Inc. ("Gambone") facility located at 545 Foundry Road in Eagleville, Pennsylvania ("Gambone facility" or "Facility"), within the meaning of Section 312 of EPCRA, 42 U.S.C. § 11022.

4. The Gambone facility is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66.

5. On January 26, 2010, EPA conducted an inspection of the Facility to determine its compliance with the requirements of Sections 302-312 of EPCRA, 42 U.S.C. §§ 11002-11022.

6. For the purpose of submissions pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, the state emergency response commission ("SERC") for the Gambone facility is, and has been at all times relevant to this CA/FO, the Pennsylvania Emergency Management Agency ("PEMA"), located at 2605 Interstate Drive in Harrisburg, Pennsylvania 17120. The SERC has designated the Bureau of PENNSAFE, Pennsylvania Department of Labor and Industry, as the recipient of submissions pursuant to Sections 311 and 312 of EPCRA in the Commonwealth of Pennsylvania. The Bureau is located at 155-E Labor and Industry Building, Seventh and Forster Streets in Harrisburg, Pennsylvania 17120.

7. The local emergency planning committee ("LEPC") and the local fire department for the Gambone facility are, and have been at all times relevant to this CA/FO, the Montgomery County LEPC, Emergency Operations Center, located at Eagleville Road, Eagleville, Pennsylvania and the East Norriton Fire Co. 61 located at 2830 Swede Road, Norriton, Pennsylvania, respectively.

8. Section 312 of EPCRA, 42 U.S.C. § 11022, as implemented by 40 C.F.R. Part 370, requires the owner or operator of a facility required to prepare or have available an MSDS for a hazardous chemical in accordance with the OSHA Hazard Communication Standard, 29 U.S.C.

§§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an extremely hazardous chemical “EHS”)) is present at any one time during a calendar year in a quantity equal to or greater than its applicable minimum threshold for reporting (“MTL”) or threshold planning quantity (“TPQ”), to submit on or before March 1, 1988, and by March 1st of each year thereafter, a completed Emergency and Hazardous Chemical Inventory Form (“Chemical Inventory Form”) identifying the hazardous chemical and providing the information described in Section 312(d)(1) of EPCRA, 42 U.S.C. § 11022(d)(1), to the appropriate SERC, LEPC, and local fire department with jurisdiction over the facility.

9. Diesel Fuel and Unleaded Gasoline are “hazardous chemical[s]” for purposes of Section 312(c) of EPCRA, 42 U.S.C. § 11022(c), 40 C.F.R. § 370.66, and 29 C.F.R. § 1910.1200(c).

10. Pursuant to 40 C.F.R. § 370.10(a)(2)(i), the MTL for Diesel Fuel oil and Unleaded Gasoline is 10,000 pounds.

11. At all times relevant to this CA/FO, Respondent was a person engaged in a business where chemicals were used, distributed, or produced for use or distribution.

12. At all times relevant to this CA/FO, Respondent was an “employer” as that term is defined at 29 U.S.C. § 1910.1200(c).

13. At all times relevant to this CA/FO, Respondent was required to have MSDSs at its Facility for each hazardous chemical it uses, pursuant to 29 C.F.R. § 1910.1200(g).

14. At all times relevant to this CA/FO, Respondent was the owner or operator of a facility that is required to prepare or have available MSDSs for hazardous chemicals under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200.

**EPA’S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2009 – SERC**

15. The findings of fact contained in paragraphs 1 through 14 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

16. During calendar year 2009, Respondent had present at its Facility Diesel Fuel and Unleaded Gasoline, in quantities greater than its MTL.

17. By March 1, 2010, Respondent was required to submit to the SERC, LEPC and local fire department Chemical Inventory Forms identifying Diesel Fuel and Unleaded Gasoline as present at the Facility during calendar year 2009 in quantities greater than its MTL, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d).

18. Respondent failed to submit to the SERC by March 1, 2010, a Chemical Inventory Form for the Facility for calendar year 2009.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2009 – SERC**

19. The findings of fact contained in paragraphs 1 through 18 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

20. Respondent's failure to submit a Chemical Inventory Form for the Facility to the SERC by March 1, 2010, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2009 –
LEPC**

21. The findings of fact and conclusions of law contained in paragraphs 1 through 20 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

22. Respondent failed to submit to the LEPC by March 1, 2010, a Chemical Inventory Form for the Facility for calendar year 2009.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2009 –
LEPC**

23. The findings of fact and conclusions of law contained in paragraphs 1 through 22 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

24. Respondent's failure to submit a Chemical Inventory Form for the facility to the LEPC by March 1, 2010, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2009 –
FIRE DEPARTMENT**

25. The findings of fact and conclusions of law contained in paragraphs 1 through 24 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

26. Respondent failed to submit to the Fire Department by March 1, 2010, a Chemical Inventory Form for the Facility for calendar year 2009.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA – CALENDAR YEAR 2009 –
FIRE DEPARTMENT**

27. The findings of fact and conclusions of law contained in paragraphs 1 through 26 of this Consent Agreement are incorporated by reference herein as though fully set forth at length.

28. Respondent's failure to submit a Chemical Inventory Form for the facility to the local fire department by March 1, 2010, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

CIVIL PENALTY

29. In full and final settlement and resolution of all allegations referenced in the foregoing EPA's Findings of Fact and EPA's Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 312 of EPCRA, 42 U.S.C. § 11022 set forth above, in the amount of \$1,300.00.

PAYMENT TERMS

30. Payment of the civil penalty amount assessed in paragraph 29, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.* EPCRA-03-2012-0001;
- B. All checks shall be made payable to "**United States Treasury**";
- C. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Eric Volck 513-487-2105

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- F. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737
Contact: John Schmid 202-874-7026 OR REX, 1-866-234-5681

- G. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- I. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Jeffrey S. Nast
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

31. The EPCRA 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 325 of EPCRA, 42 U.S.C. § 11045, and is consistent with 40 C.F.R. Part 19 and the *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)*.

32. 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 by the final due date or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

33. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty 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).

34. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash 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 final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

35. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 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, in accordance with 31 C.F.R. § 901.9(d).

36. Failure by the Respondent to pay the \$1,300.00 penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to 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.

GENERAL PROVISIONS

37. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

38. Respondent agrees not to contest the Environmental Protection Agency's jurisdiction with respect to the execution or enforcement of the Consent Agreement and Final Order.

39. For the purpose of this proceeding, Respondent neither admits nor denies the factual allegations set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

40. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 325 of EPCRA, 42 U.S.C. § 11045.

41. The provisions of the Consent Agreement and Final Order shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

42. This Consent Agreement and Final Order resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the

In re: Gambone Steel Company, Inc.

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public health, public welfare or the environment. Nothing in this Consent Agreement and Final Order shall be construed to limit the United States' authority to pursue criminal sanctions.

43. Each party to this action shall bear its own costs and attorney's fees.

For Respondent:

Date: 9/29/11

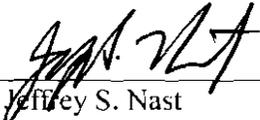
By: Angel Fiorvanti
Angel Fiorvanti
Office Manager
Gambone Steel Company, Inc.

In re: Gambone Steel Company, Inc.

EPCRA-03-2012-0001

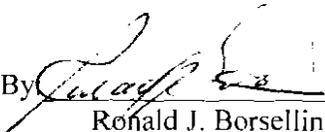
For Complainant:

Date: 10/3/11

By: 
Jeffrey S. Nast
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: October 11, 2011

By: 
Ronald J. Borsellino, Director
Hazardous Site Cleanup Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103-2029

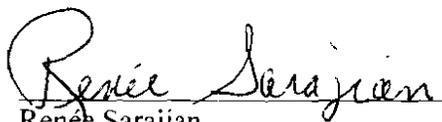
In the Matter of:)	
)	EPA Docket No.: EPCRA-03-2012-0001
Gambone Steel Company, Inc.,)	
545 Foundry Road)	
Eagleville, Pennsylvania 19403)	
)	
Respondent.)	Proceedings Pursuant to Sections 312, and
)	325 of the Emergency Planning and Community
)	Right-to-Know Act of 1986, 42 U.S.C. §§
)	11022, 11045
Gambone Steel Company, Inc.,)	
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Eagleville, Pennsylvania 19403)	
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Facility.)	

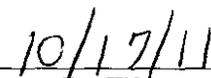
FINAL ORDER

Pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 325 of EPCRA, 42 U.S.C. § 11045, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.


 Renée Sarajian
 Regional Judicial Officer
 EPA, Region III


 DATE

In re: Gambone Steel Company, Inc.

CERTIFICATE OF SERVICE

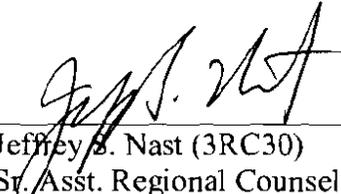
I hereby certify that the original and one copy of the Consent Agreement/Final Order, Docket No. EPCRA-03-2012-0001, and associated enclosures, have been hand delivered and filed with the EPA Region III Regional Hearing Clerk on the date below, and that copies of the same were sent via UPS expedited delivery to the following:

Alison Lecker, Esq.
Fox Rothschild LLP
747 Constitution Drive
Suite 100
Exton, PA 19341

and

Angel Fiorvanti
Office Manager
Gambone Steel Company, Inc.
545 Foundry Road
Eagleville, PA 19403

10/19/11
Date



Jeffrey S. Nast (3RC30)
Sr. Asst. Regional Counsel
U.S. EPA , Region III
(215) 814-2652



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

HAND DELIVERY

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Consent Agreement and Final Order
U.S. EPA Docket No. EPCRA-03-2012-0001

Dear Ms. Guy:

Enclosed for filing is a fully executed Consent Agreement and Final Order initiating and settling this matter pursuant to 40 C.F.R. § 22.13(b). A courtesy copy of the Consent Agreement and Final Order is also enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey S. Nast".

Jeffrey S. Nast

Sr. Assistant Regional Counsel

10/19/11

cc: Allison Lecker, Esq.

