



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202 - 2733

DEC 15 2015

CERTIFIED MAIL: RETURN RECEIPT REQUESTED # 7009-1680-0002-2748-4338

Apex Tool Group LLC,
c/o The Corporation Company
124 West Capitol Ave, Suite 1900
Little Rock, AR 72201

Re: In the Matter of Apex Tool Group, LLC; Springdale, Arkansas - Docket No. EPCRA 06-2016-0500

Dear Mr. Sir or Madame:

Enclosed is a Complaint and Notice of Opportunity for Hearing filed against Apex Tool Group, LLC in Springdale, Arkansas, pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c). It is alleged in the Complaint that Apex Tool Group, LLC failed to timely, completely, and accurately submit Toxic Chemical Release Inventory Reporting Forms as required under Section 313 of EPCRA.

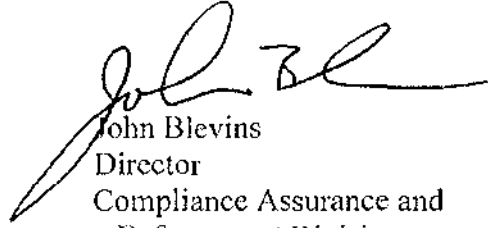
We call your attention to that part of the Complaint entitled "Opportunity to Request a Hearing." You are required to respond, i.e., file an "Answer," to the Complaint within thirty (30) days of receipt to preserve your right to a hearing. If you do not file an Answer or pay the requested penalty within thirty days, a Default Order can be issued. Upon issuance of a Default Order, the proposed civil penalty assessed will be due and payable without further proceedings thirty days after the Order becomes final. In the interim, you are welcome to request a meeting with the U.S. Environmental Protection Agency, Region 6 (EPA) to discuss settlement of this matter, separate from your obligations to respond to the Complaint or request a hearing by filing with the Regional Hearing Clerk.

Applicable EPA documents to supplement the Complaint are enclosed for your information. These documents include the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, and the Enforcement Response Policy for Section 313 of EPCRA and Section 6607 of the Pollution Prevention Act, April 12, 2001 (Amended).

For additional information, or clarification of any issue regarding this matter, you may contact Mr. Jay Przyborski at 214-665-6605 or via e-mail at przyborski.jay@epa.gov.

Your prompt attention to this matter is appreciated.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures (2)

cc: Cynthia Bishop
Attorney for Respondent
C Bishop Law PC
P.O. Box 612994
Dallas, TX 75261

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REGIONAL OFFICE
EPA REGION 6

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

APEX TOOL GROUP, LLC
SPRINGDALE, ARKANSAS

RESPONDENT

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DOCKET NO. EPCRA-06-2016-0500

COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

This Complaint and Notice of Opportunity for Hearing (Complaint) is issued pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c), and 40 C.F.R. § 22.13. The Complainant in this action is the Director of the Compliance Assurance and Enforcement Division, United States Environmental Protection Agency (EPA), Region 6, who has delegated authority to issue such Complaints in the states of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. The Complainant will show that Apex Tool Group (Respondent) has violated Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder.

I. STATUTORY AND REGULATORY BACKGROUND

1.) Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that: (a) has ten or more full-time employees; (b) that is an establishment with a primary Standard Industrial Classification (SIC) major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary North American Industry Classification System

(NAICS) subsector or industry code listed in 40 C.F.R. §§ 372.23(b) or (c), and (c) “manufactured, processed, or otherwise used” a toxic chemical listed under Subsection 313(c) of EPCRA and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Subsection 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, or 372.28 during the calendar year, to complete and submit a toxic chemical release reporting form (EPA Form R) to the Administrator of EPA and to the State in which the subject facility is located by July 1 of the following year for each toxic chemical known by the owner or operator to be “manufactured, processed, or otherwise used” in quantities exceeding the established threshold quantity during that preceding calendar year.

2.) According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30, is 25,000 pounds for any toxic chemical “manufactured or processed” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable calendar year. 40 C.F.R. § 372.28 sets forth lower threshold amounts for toxic chemicals of special concern (certain persistent bioaccumulative toxic chemicals).

3.) “Manufacture” as defined by 40 C.F.R. § 372.3, means to produce, prepare, import or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use, or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that chemical or mixture of chemicals as an impurity.

4.) "Process" as defined by 40 C.F.R. § 372.3, means the preparation of a toxic chemical, after its manufacture, for distribution in commerce: (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing the substance, or (2) as part of an article containing the toxic chemical. Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.

5.) "Otherwise use" as defined by 40 C.F.R. § 372.3, means "any use of a toxic chemical, including a toxic chemical contained in a mixture or other trade name product or waste, that is not covered by the terms 'manufacture' or 'process.'"

6.) Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator to assess a penalty up to \$37,500 for each violation of "any requirement" of Section 313 of EPCRA, 42 U.S.C. § 11023.¹ The EPA regulations codified at 40 C.F.R. Part 372 were promulgated to carry out the requirements of Section 313.

II. PRELIMINARY ALLEGATIONS

7.) Respondent is a company organized under the laws of the State of Delaware and authorized to do business in the State of Arkansas.

8.) Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

9.) Respondent owns and operates a manufacturing facility located at 1609 N Old Missouri Road, Springdale, AR 72764.

¹ The amount of penalty that can be assessed under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$37,500 for violations that occurred after January 12, 2009.

10.) The facility identified in Paragraph 9, is a “facility”, as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

11.) Respondent's facility had ten (10) or more “full-time employees” as that term is defined by 40 C.F.R. § 372.3 for calendar years 2009 through 2013.

12.) Respondent's facility is in NAICS code 332216 (saw blade and handtool manufacturing) and 40 C.F.R. Part 372 applies to a facility with this code.

13.) Respondent knew pursuant to 40 C.F.R. § 372.30 the type and quantity of toxic chemicals manufactured, processed, or otherwise used at its facility during calendar years 2009-2013.

14.) Chromium is a “toxic chemical” within the meaning of 40 C.F.R. § 372.3 and is a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.65(a). Chromium compounds are separate toxic chemicals listed under 40 C.F.R. § 372.65(c).

15.) Copper is a “toxic chemical” within the meaning of 40 C.F.R. § 372.3 and is a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.65(a). Copper compounds are separate toxic chemicals listed under 40 C.F.R. § 372.65(c).

16.) Lead is a “toxic chemical” within the meaning of 40 C.F.R. § 372.3 and is a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.28(a)(1).

17.) Manganese is a “toxic chemical” within the meaning of 40 C.F.R. § 372.3 and is a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.65(a). Manganese compounds are separate toxic chemicals listed under 40 C.F.R. § 372.65(c).

18.) Nitric Acid is a “toxic chemical” within the meaning of 40 C.F.R. § 372.3 and is a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.65(a).

19.) Nickel compounds are “toxic chemicals” within the meaning of 40 C.F.R. § 372.3 and are a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.65(e).

20.) On or about November 19th, 2013 EPA performed an inspection of Respondent’s facility at 1609 N Old Missouri Road, Springdale, AR 72764 pursuant to its authority under Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 in order to determine compliance with those laws and regulations.

21.) On or about April 2, 2015, EPA notified Respondent of non-compliance identified through the inspection and review of documents provided by Respondent.

22.) On or about August 5-6, 2015, Respondent submitted new and revised EPA Form Rs and withdrew previous Form Rs for reporting years 2009-2013.

III. VIOLATIONS

Count 1 – Failure to Accurately Report Chromium for Calendar Year 2009

23.) Paragraphs 1 through 22 are realleged and incorporated by reference.

24.) During calendar year 2009, Respondent processed chromium at Respondent’s facility in excess of the applicable threshold.

25.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for chromium for 2009 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for chromium compounds.

26.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for chromium for calendar year 2009 to EPA and to the State of Arkansas.

Count 2 – Failure to Accurately Report Chromium for Calendar Year 2010

27.) Paragraphs 1 through 22 are realleged and incorporated by reference.

28.) During calendar year 2010, Respondent processed chromium at Respondent's facility in excess of the applicable threshold.

29.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for chromium for 2010 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for chromium compounds.

30.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 failing to submit an accurate report for chromium for calendar year 2010 to EPA and to the State of Arkansas.

Count 3 – Failure to Report Chromium for Calendar Year 2011

31.) Paragraphs 1 through 22 are realleged and incorporated by reference.

32.) During calendar year 2011, Respondent processed chromium at Respondent's facility in excess of the applicable threshold.

33.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for chromium for 2011 by July 1 of the following year.

34.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for chromium for calendar year 2011 to EPA and to the State of Arkansas.

Count 4 – Failure to Report Chromium for Calendar Year 2012

35.) Paragraphs 1 through 22 are realleged and incorporated by reference.

36.) During calendar year 2012, Respondent processed chromium at Respondent's facility in excess of the applicable threshold.

37.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for chromium for 2012 by July 1 of the following year.

38.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for chromium for calendar year 2012 to EPA and to the State of Arkansas.

Count 5 – Failure to Report Chromium for Calendar Year 2013

39.) Paragraphs 1 through 22 are realleged and incorporated by reference.

40.) During calendar year 2013, Respondent processed chromium at Respondent's facility in excess of the applicable threshold.

41.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for chromium for 2013 by July 1 of the following year.

42.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for chromium for calendar year 2013 to EPA and to the State of Arkansas.

Count 6 – Failure to Accurately Report Copper for Calendar Year 2009

43.) Paragraphs 1 through 22 are realleged and incorporated by reference.

44.) During calendar year 2009, Respondent processed copper at Respondent's facility in excess of the applicable threshold.

45.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for copper for 2009 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for copper compounds.

46.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for copper for calendar year 2009 to EPA and to the State of Arkansas.

Count 7 – Failure to Accurately Report Copper for Calendar Year 2010

47.) Paragraphs 1 through 22 are realleged and incorporated by reference.

48.) During calendar year 2010, Respondent processed copper at Respondent's facility in excess of the applicable threshold.

49.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for copper for 2010 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for copper compounds.

50.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for copper for calendar year 2010 to EPA and to the State of Arkansas.

Count 8 – Failure to Accurately Report Copper for Calendar Year 2011

51.) Paragraphs 1 through 22 are realleged and incorporated by reference.

52.) During calendar year 2011, Respondent processed copper at Respondent's facility in excess of the applicable threshold.

53.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for copper for 2011 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for copper compounds.

54.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for copper for calendar year 2011 to EPA and to the State of Arkansas.

Count 9 – Failure to Accurately Report Copper for Calendar Year 2012

55.) Paragraphs 1 through 22 are realleged and incorporated by reference.

56.) During calendar year 2012, Respondent processed copper at Respondent's facility in excess of the applicable threshold.

57.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for copper for 2012 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for copper compounds.

58.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for copper for calendar year 2012 to EPA and to the State of Arkansas.

Count 10 – Failure to Accurately Report Copper for Calendar year 2013

59.) Paragraphs 1 through 22 are realleged and incorporated by reference.

60.) During calendar year 2013, Respondent processed copper at Respondent's facility in excess of the applicable threshold.

61.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for copper for 2013 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for copper compounds.

62.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for copper for calendar year 2013 to EPA and to the State of Arkansas.

Count 11 – Failure to Report Lead for Calendar Year 2009

63.) Paragraphs 1 through 22 are realleged and incorporated by reference.

64.) During calendar year 2009, Respondent processed lead at Respondent's facility in excess of the applicable threshold.

65.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for lead by July 1 of the following year.

66.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for lead for calendar year 2009 to EPA and to the State Arkansas.

Count 12 – Failure to Report Lead for Calendar Year 2010

67.) Paragraphs 1 through 22 are realleged and incorporated by reference.

68.) During calendar year 2010, Respondent processed lead at Respondent's facility in excess of the applicable threshold.

69.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for lead by July 1 of the following year.

70.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for lead for calendar year 2010 to EPA and to the State of Arkansas.

Count 13 – Failure to Report Lead for Calendar Year 2011

71.) Paragraphs 1 through 22 are realleged and incorporated by reference.

72.) During calendar year 2011, Respondent processed lead at Respondent's facility in excess of the applicable threshold.

73.) Respondent failed to file an EPA Form R with EPA and the State of Arkansas for lead as required by July 1 of the following year.

74.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for lead for calendar year 2011 to EPA and to the State of Arkansas.

Count 14 – Failure to Report Lead for Calendar Year 2012

75.) Paragraphs 1 through 22 are realleged and incorporated by reference.

76.) During calendar year 2012, Respondent processed lead at Respondent's facility in excess of the applicable threshold.

77.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for lead as required by July 1 of the following year.

78.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for lead for calendar year 2012 to EPA and to the State of Arkansas.

Count 15 – Failure to Report Lead for Calendar Year 2013

79.) Paragraphs 1 through 22 are realleged and incorporated by reference.

80.) During calendar year 2013, Respondent processed lead at Respondent's facility in excess of the applicable threshold.

81.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for lead as required by July 1 of the following year.

82.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for lead for calendar year 2013 to EPA and to the State of Arkansas.

Count 16 – Failure to Accurately Report Manganese for Calendar Year 2009

83.) Paragraphs 1 through 22 are realleged and incorporated by reference.

84.) During calendar year 2009, Respondent processed manganese at Respondent's facility in excess of the applicable threshold.

85.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for manganese for 2009 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for manganese compounds.

86.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for manganese for calendar year 2009 to EPA and to the State of Arkansas.

Count 17 – Failure to Accurately Report Manganese for Calendar Year 2010

87.) Paragraphs 1 through 22 are realleged and incorporated by reference.

88.) During calendar year 2010, Respondent processed manganese at Respondent's facility in excess of the applicable threshold.

89.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for manganese for 2010 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for manganese compounds.

90.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for manganese for calendar year 2010 to EPA and to the State of Arkansas.

Count 18 – Failure to Accurately Report Manganese for Calendar Year 2011

91.) Paragraphs 1 through 22 are realleged and incorporated by reference.

92.) During calendar year 2011, Respondent processed manganese at Respondent's facility in excess of the applicable threshold.

93.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for manganese for 2011 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for manganese compounds.

94.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for manganese for calendar year 2011 to EPA and to the State of Arkansas.

Count 19 – Failure to Accurately Report Manganese for Calendar year 2012

95.) Paragraphs 1 through 22 are realleged and incorporated by reference.

96.) During calendar year 2012, Respondent processed manganese at Respondent's facility in excess of the applicable threshold.

97.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for manganese for 2012 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for manganese compounds.

98.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for manganese for calendar year 2012 to EPA and to the State of Arkansas.

Count 20 – Failure to Accurately Report Manganese for Calendar year 2013

99.) Paragraphs 1 through 22 are realleged and incorporated by reference.

100.) During calendar year 2013, Respondent processed manganese at Respondent's facility in excess of the applicable threshold.

101.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for manganese for 2013 by July 1 of the following year due to data quality errors. Respondent incorrectly submitted a report for manganese compounds.

102.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit an accurate report for manganese for calendar year 2013 to EPA and to the State of Arkansas.

Count 21 – Failure to Report Nitric Acid for Calendar year 2009

103.) Paragraphs 1 through 22 are realleged and incorporated by reference.

104.) During calendar year 2009, Respondent otherwise used nitric acid at Respondent's facility in excess of the applicable threshold.

105.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for nitric acid as required by July 1 of the following year.

106.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(e), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for nitric acid for calendar year 2009 to EPA and to the State Arkansas.

Count 22 – Failure to Report Nitric Acid for Calendar year 2010

107.) Paragraphs 1 through 22 are realleged and incorporated by reference.

108.) During calendar year 2010, Respondent otherwise used nitric acid at Respondent's facility in excess of the applicable threshold.

109.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for nitric acid as required by July 1 of the following year.

110.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for nitric acid for calendar year 2010 to EPA and to the State of Arkansas.

Count 23 – Failure to Report Nitric Acid for Calendar year 2011

111.) Paragraphs 1 through 22 are realleged and incorporated by reference.

112.) During calendar year 2011, Respondent otherwise used nitric acid at Respondent's facility in excess of the applicable threshold.

113.) Respondent failed to file an EPA Form R with EPA and the State of Arkansas for nitric acid as required by July 1 of the following year.

114.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for nitric acid for calendar year 2011 to EPA and to the State of Arkansas.

Count 24 – Failure to Report Nitric Acid for Calendar year 2012

115.) Paragraphs 1 through 22 are realleged and incorporated by reference.

116.) During calendar year 2012, Respondent otherwise used nitric acid at Respondent's facility in excess of the applicable threshold.

117.) Respondent failed to submit an EPA Form R to EPA and the State of Arkansas for nitric acid as required by July 1 of the following year.

118.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to timely submit an EPA Form R for nitric acid for calendar year 2012 to EPA and to the State of Arkansas.

Count 25 – Failure to Accurately Report Nickel Compounds for Calendar year 2009

119.) Paragraphs 1 through 22 are realleged and incorporated by reference.

120.) During calendar year 2009, Respondent processed nickel compounds at Respondent's facility in excess of the applicable threshold.

121.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for nickel compounds for 2009 by July 1 of the following year due to data quality errors.

122.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.30 by failing to submit an accurate EPA Form R for nickel compounds for calendar year 2009 to EPA and to the State Arkansas.

Count 26 – Failure to Accurately Report Nickel Compounds for Calendar year 2010

123.) Paragraphs 1 through 22 are realleged and incorporated by reference.

124.) During calendar year 2010, Respondent processed nickel compounds at Respondent's facility in excess of the applicable threshold.

125.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for nickel compounds for 2010 by July 1 of the following year due to data quality errors.

126.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(e), and 40 C.F.R. § 372.30 failing to submit an accurate EPA Form R for nickel compounds for calendar year 2010 to EPA and to the State Arkansas.

Count 27 – Failure to Accurately Report Nickel Compounds for Calendar year 2011

127.) Paragraphs 1 through 22 are realleged and incorporated by reference.

128.) During calendar year 2011, Respondent processed nickel compounds at Respondent's facility in excess of the applicable threshold.

129.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for nickel compounds for 2011 by July 1 of the following year due to data quality errors.

130.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(e), and 40 C.F.R. § 372.30 by failing to submit an accurate EPA Form R for nickel compounds for calendar year 2011 to EPA and to the State Arkansas.

Count 28 – Failure to Accurately Report Nickel Compounds for Calendar year 2012

131.) Paragraphs 1 through 22 are realleged and incorporated by reference.

132.) During calendar year 2012, Respondent processed nickel compounds at Respondent's facility in excess of the applicable threshold.

133.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for nickel compounds for 2012 by July 1 of the following year due to data quality errors.

134.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.30 by failing to submit an accurate EPA Form R for nickel compounds for calendar year 2012 to EPA and to the State Arkansas.

Count 29 – Failure to Accurately Report Nickel Compounds for Calendar year 2013

135.) Paragraphs 1 through 22 are realleged and incorporated by reference.

136.) During calendar year 2013, Respondent processed nickel compounds at Respondent's facility in excess of the applicable threshold.

137.) Respondent failed to submit an accurate EPA Form R to EPA and the State of Arkansas for nickel compounds for 2013 by July 1 of the following year due to data quality errors.

138.) Therefore, Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.30 by failing to submit an accurate EPA Form R nickel compounds for calendar year 2013 to EPA and to the State Arkansas.

IV. PROPOSED CIVIL PENALTY

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), as adjusted by 40 C.F.R. Part 19, authorizes EPA to assess a civil penalty of up to \$37,500 per day for each violation of any requirement of EPCRA Section 313, 42 U.S.C. § 11023. The Complainant proposes to assess a civil penalty in the amount of **\$591,310**.

To develop the proposed penalty in this Complaint, the Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's "Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) [Amended]," dated April 12, 2001, a copy of which is enclosed with this Complaint. This policy

provides for a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases. EPA has also calculated the penalties in accordance with the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19. The penalty calculation is attached to this complaint, and labeled as Exhibit 1.

V. OPPORTUNITY TO REQUEST A HEARING

Respondent has the right to request a hearing. Any request for a hearing must be in writing and must be filed with the following within thirty (30) days of receipt of this Complaint:

Ms. Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

If Respondent wishes to contest any material fact set forth in the Complaint, contends that the proposed penalty is inappropriate, or contends that it is entitled to a judgment as a matter of law, the original and one copy of the Answer to this Complaint must be filed with the Regional Hearing Clerk at the above address within thirty (30) days after service of said Complaint pursuant to 40 C.F.R. § 22.15. A copy of the Answer shall also be sent to:

Jay Przyborski
Office of Regional Counsel
U.S. EPA – Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

David Riley
EPCRA 313 Enforcement Officer
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

The Answer should clearly and directly admit, deny, or explain each factual allegation contained in this Complaint with regard to which Respondent has knowledge. Where Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The Answer should state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) whether a hearing is requested. Hearings held on the assessment of the civil penalties will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice, codified at 40 C.F.R. Part 22. A copy of 40 C.F.R. Part 22 is enclosed with this Complaint.

If an Answer to this Complaint is not filed with the Regional Hearing Clerk within thirty (30) days of receipt, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing. A default order may be thereafter be issued by the Presiding Officer in accordance with 40 C.F.R. § 22.17. The proposed penalty shall become due and payable without further proceedings thirty (30) days after the default order becomes final under 40 C.F.R. § 22.27(c).

VI. SETTLEMENT CONFERENCE

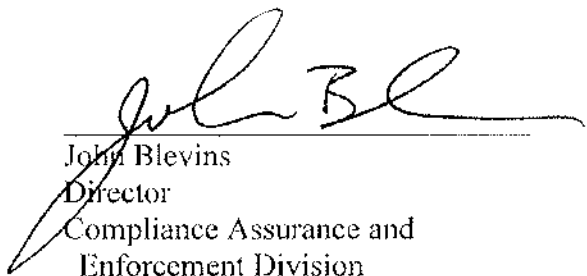
EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Therefore, whether or not a formal hearing is requested, Respondent may confer informally with the EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to have a representative appear at the conference, to be represented by counsel, or both. If a settlement is reached, it shall be finalized by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer.

In the Matter of Apex Tool Group, LLC. Docket No. EPCRA-06-2016-0500

and filed with the Regional Hearing Clerk. The issuance of such Final Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated to therein. Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written Answer and/or Request for a Hearing must be submitted.

To explore the possibility of settlement in this matter, please address all correspondence to Mr. Jay Przyborski at the address listed above or by telephone call (214) 665-6605.

Dated at Dallas, Texas on this 15th day of DECEMBER, 2015.



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

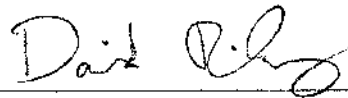
I hereby certify that on the 15th day of December, 2015, the original and one copy of the foregoing Complaint and Notice of Opportunity for Hearing was hand-delivered to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the Complaint together with copies of the Enforcement Response Policy for Section 313 of the EPCRA and the Consolidated Rules of Practice (40 C.F.R. Part 22) were placed in the United States Mail, certified mail, return receipt requested:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7009 1680 0002 2748 4338

Apex Tool Group LLC,
c/o The Corporation Company
124 West Capitol Ave, Suite 1900
Little Rock, AR 72201

Copy to:

Cynthia Bishop
Attorney for Respondent
C Bishop Law PC
P.O. Box 612994
Dallas, TX 75261



David Riley
EPCRA 313 Enforcement Officer
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

EXHIBIT 1

PENALTY CALCULATION

Count 1 – Failure to Accurately Report Chromium for Calendar year 2009

Extent Level: B (< 10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 1: \$14,170

Count 2 – Failure to Accurately Report Chromium for Calendar year 2010

Extent Level: B (< 10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 2: \$14,170

Count 3 – Failure to Report Chromium for Calendar year 2011

Extent Level: B (< 10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 3: \$24,080

Count 4 – Failure to Report Chromium for Calendar year 2012

Extent Level: B (< 10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 4: \$24,080

Count 5 – Failure to Report Chromium for Calendar year 2013

Extent Level: B (< 10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 5: \$24,080

Count 6 – Failure to Accurately Report Copper for Calendar year 2009

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 6: \$21,250

Count 7 – Failure to Accurately Report Copper for Calendar year 2010

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 7: \$21,250

Count 8 – Failure to Accurately Report Copper for Calendar year 2011

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 8: \$21,250

Count 9 – Failure to Accurately Report Copper for Calendar year 2012

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 9: \$21,250

Count 10 – Failure to Accurately Report Copper for Calendar year 2013

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 10: \$21,250

Count 11 – Failure to Report Lead for Calendar year 2009

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 11: \$24,080

Count 12 – Failure to Report Lead for Calendar year 2010

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 12: \$37,500

Count 13 – Failure to Report Lead for Calendar year 2011

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 13: \$37,500

Count 14 – Failure to Report Lead for Calendar year 2012

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 14: \$37,500

Count 15 – Failure to Report Lead for Calendar year 2013

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 15: \$24,080

Count 16 – Failure to Accurately Report Manganese for Calendar year 2009

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 16: \$21,250

Count 17 – Failure to Accurately Report Manganese for Calendar year 2010

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 17: \$21,250

Count 18 – Failure to Accurately Report Manganese for Calendar year 2011

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 18: \$21,250

Count 19 – Failure to Accurately Report Manganese for Calendar year 2012

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 19: \$21,250

Count 20 – Failure to Accurately Report Manganese for Calendar year 2013

Extent Level: A (>10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 3: (Data Quality Errors)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 20: \$21,250

Count 21 – Failure to Report Nitric Acid for Calendar year 2009

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 21: \$24,080

Count 22 – Failure to Report Nitric Acid for Calendar year 2010

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 22: \$24,080

Count 23 – Failure to Report Nitric Acid for Calendar year 2011

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 23: \$24,080

Count 24 – Failure to Report Nitric Acid for Calendar year 2012

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 1: (Not Reported)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 24: \$24,080

Count 25 – Failure to Accurately Report Nickel Compounds for Calendar year 2009

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 5: (Data Quality Errors disclosed after November 30th of the year the report was due)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 25: \$4,250

Count 26 – Failure to Accurately Report Nickel Compounds for Calendar year 2010

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 5: (Data Quality Errors disclosed after November 30th of the year the report was due)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 26: \$4,250

Count 27 – Failure to Accurately Report Nickel Compounds for Calendar year 2011

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 5: (Data Quality Errors disclosed after November 30th of the year the report was due)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 27: \$4,250

Count 28 – Failure to Accurately Report Nickel Compounds for Calendar year 2012

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 5: (Data Quality Errors disclosed after November 30th of the year the report was due)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 28: \$4,250

Count 29 – Failure to Accurately Report Nickel Compounds for Calendar year 2013

Extent Level: B (<10x Threshold, >\$10MM Gross Sales, >50 employees)

Circumstance Level 5: (Data Quality Errors disclosed after November 30th of the year the report was due)

Adjustment to Gravity-Based Penalty: None

Proposed Penalty for Count 29: \$4,250

TOTAL PENALTY - \$591,310