

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

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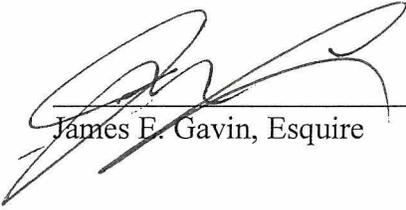
IN THE MATTER OF: :
: :
Eagle Brass Company, : Docket No. EPCRA-III-2015-0127
: :
Respondent :
: :
Eagle Brass Company : Record for Submission in Response to
1243 Old Bernville Road : Motion for Accelerated Decision
Leesport, PA 19533-9115, :
: :
Facility :
:

**RECORD FOR SUBMISSION IN RESPONSE
TO MOTION FOR ACCELERATED DECISION**

NOW COMES, the Eagle Brass Company, submitting the following as part of its record for consideration on the Motion for Accelerated Disposition:

1. Request for Information dated June 3, 2014;
2. Undated Request to Show Cause, time-stamped October 22, 2014;
3. Administrative Complaint dated June 14, 2015;
4. Answer to Administrative Complaint; and
5. Affidavit of Jonathan H. Anderton.

MASANO ♦ BRADLEY


James E. Gavin, Esquire



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

UPS Next Day Air Tracking Number
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June 3, 2014

Jonathon H. Anderton
Eagle Brass Company
1243 Old Bernville Road
Leesport, Pennsylvania 19533-9115

Re: Request For Information

Dear Mr. Anderton:

This letter is to follow up your June 2, 2014 telephone conversation with Mr. Abraham Reich of my staff. Based on that telephone conversation, EPA is requesting additional information from you regarding your company's facility located at 1243 Old Bernville Road to determine its compliance status with Section 313 of the Emergency Planning and Chemical Reporting Act (EPCRA), which has been codified at 40 C.F.R. Part 372, Subpart B Reporting Requirements). The Disclosure Rule was promulgated pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986.

Specifically, please submit to Mr. Reich, for his review, via mail or pdf, the following information:

1. The facility's primary SIC and NAICS code;
2. The facility's total corporate sales during years 2010, 2011, and 2012;
3. The number of people employed at the facility during years 2010, 2011, and 2012;
4. A list of all chemicals and amounts (lbs.) subject to EPCRA Section 313 manufactured (either directly or incidentally), processed, or used at the facility during years 2010, 2011, and 2012;
5. Throughput data of all raw materials containing chemicals subject to EPCRA Section 313 for years 2010, 2011, and 2012;
6. Material Safety Data Sheets of all raw materials and mixtures containing chemicals subject to EPCRA Section 313 used during years 2010, 2011, and 2012.
7. A brief description of facility's background and operations;
8. A facility map and plot plan;
9. A brief summary and flow diagrams of the facility's processes.

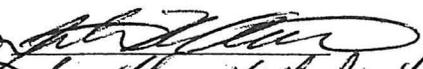
Please submit this information to Mr. Reich within ten (10) business days after receiving this letter. Mr. Reich's contact information is as follows:

Abraham Reich
U.S. Environmental Protection Agency-Region III
Land & Chemicals Management Division
Toxics Programs Branch (3LC61)
1650 Arch Street
Philadelphia, PA 19103-2029

Phone: 215-814-2157
Fax: 215-814-3114
Email: reich.abraham@epa.gov

On the last page of the company's response, the following certification should be signed by an officer or other responsible corporate official (e.g., president, secretary, treasurer, or vice president) in charge of a principal business function, or another executive with authority to perform similar policy or decision-making functions of your corporation:

"I certify that I am fully authorized by Eagle Brass Company to provide the above information on its behalf to the U.S. Environmental Protection Agency regarding the upcoming inspection. I certify under penalty of law that this response and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

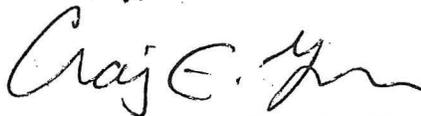
Signature 
Name *Jonathan H. Anderson*
Title *VP of Operations*

Eagle Brass Company is entitled to assert a claim of business confidentiality covering all or any part of the information it submits, in the manner described in 40 C.F.R. Section 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted at the time the required information is submitted to EPA, EPA may make this information available to the public without further notice to you.

This request for submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501 *et seq.*

If you have any questions or concerns, you may contact me at 215-814-2151 or Mr. Reich at 215-814-2157. Thank you for your cooperation in this matter.

Sincerely,



Craig E. Yussen, Chemical Engineer
Toxics Programs Branch

Enclosure_



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

OCT 22 2014

VIA OVERNIGHT MAIL

Mr. Jonathan Anderton
Eagle Brass Company
1243 Old Bernville Road
Leesport, PA 19533-9115

Re: Request to Show Cause
Violations of the Emergency Planning and Community Right-to-Know Act

Dear Mr. Anderton:

On June 3, 2014 through July 17, 2014, the United States Environmental Protection Agency ("EPA"), Region III, conducted a review of Eagle Brass Company's compliance with the requirements of Section 313 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11023, and its implementing regulations set forth at 40 C.F.R. Part 372 regarding its facility located at 1243 Old Bernville Road in Leesport, Pennsylvania.

This letter invites Eagle Brass Company to "show cause" why an administrative penalty complaint should not be filed against the company for its noncompliance with EPCRA, as set forth below, by providing EPA with additional information relating to Eagle Brass Company's compliance with Section 313 of EPCRA and 40 C.F.R. Part 372. In addition, EPA invites Eagle Brass Company to discuss potential settlement and resolution of this matter prior to EPA's anticipated filing of an administrative penalty complaint against Eagle Brass Company.

I. Violations for Failure to Timely File Toxic Release Inventory Reports for Nickel and Copper, as Required by Section 313 of EPCRA

Based upon the information gathered during EPA's investigation, EPA has reason to believe that Eagle Brass Company failed to comply with federal regulations promulgated pursuant to Section 313 of EPCRA, 42 U.S.C. § 11023.

40 C.F.R. § 372.30 requires, in relevant part, that each owner or operator of a facility in SIC codes 20-39 (2000 - 3900), among others, that has ten or more full-time (or the equivalent) employees and that manufactures, processes, or otherwise uses a listed toxic chemical during any calendar year in excess of the threshold quantity specified set forth in 40 C.F.R. § 372.25 (these thresholds are also indicated in the table below), submit a toxic chemical release inventory report ("Form R") for each such chemical by July 1 of the following year to EPA and the State where the facility is located. See <http://www2.epa.gov/toxics-release-inventory-tri-program>.

EPA has determined, based on the information provided by Eagle Brass Company's representatives, that the Facility had ten or more full time (or the equivalent) employees during calendar years 2010, 2011, and 2012, and is in Standard Industrial Code 3331 (primary smelting and refining copper). In addition, based on information provided there is reason to believe that the Facility processed the following chemicals, in the quantities stated below:

<u>Year</u>	<u>Chemical</u>	<u>Amount Processed</u>	<u>Threshold for Reporting (lbs.)</u>
2010	Copper	198,364	25,000
2011	Nickel	107,551	25,000
2011	Copper	287,300	25,000
2012	Nickel	79,632	25,000
2012	Copper	212,722	25,000

Accordingly, Eagle Brass Company was required by Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30 to file with EPA and the designated state agency a toxic release inventory report ("TRI Report" or "Form R") for the above-referenced chemicals for calendar years 2010, 2011 and 2012 by the reporting deadline of July 1 of each respective following year. EPA's records indicate that Eagle Brass Company did not meet the statutory deadlines for submission because, according to EPA's records, Eagle Brass Company did not file its TRI Report for the aforesaid chemicals until after the reporting deadline, or not at all.

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes EPA to assess civil administrative penalties up to \$25,000 for each violation of Section 313 of EPCRA. The *Federal Civil Penalties Inflation Adjustment Act of 1990*, 28 U.S.C. § 2461, *et seq.*, the *Debt Collection Improvement Act of 1996*, 31 U.S.C. § 3701 *et seq.*, and the *Civil Monetary Penalty Inflation Adjustment Rule*, 40 C.F.R. Part 19, increased the maximum statutory civil penalty for violations of EPCRA to \$37,500 per violation. Any person (other than a governmental entity) who violates any requirement of Section 313 is liable for a civil administrative penalty. Each day a violation continues constitutes a separate violation. EPA is authorized to commence a civil administrative action (an administrative complaint and notice of opportunity for hearing) for the assessment of civil penalties for the violations described above. The amount of a civil penalty would be determined in accordance with 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)*," dated August 10, 1992 ("Penalty Policy"). For the EPCRA violations at the Eagle Brass Company Facility, EPA has calculated a penalty of **\$47,920**. A copy of the Penalty Calculation Worksheet, the relevant Penalty Policy, and the inflation adjustment chart are enclosed for your information. You may wish to review the Penalty Policy in determining any potential penalty reductions Eagle Brass Company believes it is entitled to, prior to any ensuing settlement discussions.

II. Request for Information, Request to Show Cause & Notice of Opportunity to Confer

Prior to the filing of a complaint, EPA invites Eagle Brass Company to respond to EPA and to submit any information that it believes the Agency should consider in its review of this matter. Should Eagle Brass Company choose to submit information to EPA pursuant to this Request to Show Cause letter, please include the following signed and dated certification as part of any submission:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to Information Request and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment.”

Signature: _____
Printed Name: _____
Title: _____

EPA also wishes to provide Eagle Brass Company with an opportunity to consult with EPA representatives, either in person or by conference call, to discuss this matter. At such a meeting or conference call, Eagle Brass Company may “show cause” why EPA’s present information concerning the EPCRA violations described above is not correct and/or articulate the reasons, if any, why Eagle Brass Company believes that EPA should not file an administrative civil complaint against it.

At this same meeting/conference call, EPA invites Eagle Brass Company to discuss with EPA its interest, if any, in settling any claims EPA may have against the company arising from the EPCRA violations described above. Should EPA and Eagle Brass Company agree on a settlement in principle – including an appropriate civil penalty – EPA and Eagle Brass Company would then execute a consent agreement and final order. The filing of such agreement – which would simultaneously commence and conclude this matter without the filing of an administrative complaint and litigation – is permitted under EPA’s *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits*, 40 C.F.R. Part 22, specifically, 40 C.F.R. § 22.13(b). A copy of these regulations is enclosed for your reference.

If Eagle Brass Company is interested in meeting with EPA to discuss settlement, Eagle Brass Company should contact Mr. Craig E. Yussen of my staff at (215) 814-2151 within ten (10) working days of Eagle Brass Company’s receipt of this letter. If Eagle Brass Company will be represented by counsel, please have him/her contact Ms. Joyce Howell, the EPA attorney assigned to this matter, at (215) 814-2644. If EPA and Eagle Brass Company are unable to reach an expeditious settlement of this matter, EPA is prepared to file an administrative complaint against Eagle Brass Company for the EPCRA violations described herein. *Whether or not Eagle Brass Company takes advantage of this pre-filing settlement opportunity, there will still be an opportunity to discuss settlement at any time after the filing of any complaint against Eagle Brass Company.*

Finally, in order to supplement EPA's current understanding of the facts herein at issue, and to facilitate settlement discussions, EPA requests that Eagle Brass Company submit, **within thirty (30) calendar days of receipt of this letter**, any additional documentation that identifies any and all measures taken by Eagle Brass Company to correct, remedy or otherwise address the violations identified herein. If compliance measures are planned or are ongoing, please identify such measures and provide a schedule indicating when each identified compliance measure will be completed. If Eagle Brass Company has any new or additional information that it considers relevant to the liability and/or penalty issues associated with this matter, EPA similarly requests that Eagle Brass Company provide such information to EPA **within thirty (30) calendar days of your receipt of this letter**. EPA will review and consider any such information provided by Eagle Brass Company in advance of any requested settlement conference.

For your information, EPA is enclosing a fact sheet entitled, "*U.S. EPA Small Business Resources*," which identifies a variety of resources available to assist small businesses in complying with federal and state environmental laws. In addition, please be advised that Eagle Brass Company may be required to disclose to the Securities and Exchange Commission the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under federal, state or local environmental laws. Please refer to the enclosed "*Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings*" to determine if this requirement is applicable to Eagle Brass Company.

Please submit all information, as well as any written request for a settlement conference, to both:

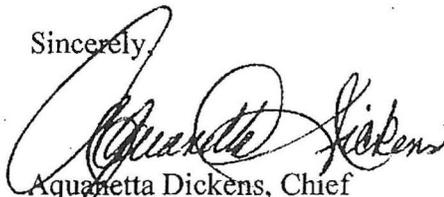
Craig Yussen
EPCRA 313 Compliance Officer (3LC61)
U.S. Environmental Protection Agency,
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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

Eagle Brass Company is entitled to assert a claim of business confidentiality covering all or part of the information it submits, in the manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted at the time the required information is submitted to EPA, EPA may make this information available to the public without further notice to you.

If you have any questions, you may call Craig Yussen, Compliance Officer, at (215) 814-2151, or have your attorney contact the attorney assigned to this matter, Joyce Howell, Senior Assistant Regional Counsel, at (215) 814-2644.

Sincerely,

A handwritten signature in black ink, appearing to read "Aquanetta Dickens". The signature is fluid and cursive, with a large initial "A".

Aquanetta Dickens, Chief
Toxics Programs Branch
Land and Chemicals Division

cc: Craig Yussen (3LC61)
Joyce Howell (3RC30)

Enclosures:

Penalty Calculation Worksheet
Enforcement Response Policy for EPCRA § 313 and PPA § 6607
Small Business Information Sheet
Notice of SEC Registrants' Duty to Disclose
40 C.F.R. Part 22

PENALTY CALCULATION WORKSHEET 9/23/14

Facility Name/ Eagle Brass Company
Addresses: 1243 Old Bernville Rd.
 Leesport, PA 19533-9115

NAICS Code: 331421
 [corresponding SIC code: 3331 – brass and steel coils]

Total Corporate
Annual Sales: Approximately \$30.4 million (Source – facility representatives)

<u>Year</u>	<u>Number of</u> <u>Employees</u>	<u>Chemical</u>	<u>Amount</u>		<u>Threshold</u> <u>for Rep. (lb)</u>	<u>Circ.</u>	<u>Ext.</u>	<u>Penalty</u>
			<u>Mfd. [M] (lb)</u>	<u>Processed [P] (lb)</u>				
2010	49	Copper	198,364 [P]	25,000	25,000	1	C	\$ 7,090
2011	47	Nickel	107,551 [P]	25,000	25,000	4	C	2,958
2011	47	Copper	287,300 [P]	25,000	25,000	1	B	24,080
2012	47	Nickel	79,632 [P]	25,000	25,000	4	C	6,702
2012	47	Copper	212,722 [P]	25,000	25,000	1	C	<u>7,090</u>

Total Gravity-Based Penalty: \$47,920

Notes

The latest inflation adjustment factor (a 41.64 % increase except for the statutory maximum, which was increased by 50%) was applied to all violations, since the deadlines for submitting the 2010, 2011, and 2012 Form R Reports occurred after January 12, 2009.

All violations, except for the 2011 violation for copper were categorized as “Extent Level C,” since the facility processed copper and nickel in quantities *less than* 10 times the threshold levels, and had fewer than 50 employees (see p. 9 of the ERP) each year. The violation for copper for 2011 was characterized as “Extent Level B,” since the facility processed copper in quantities *greater than* 10 times the threshold level during 2011.

The per-day formula on pages 13-14 of the ERP was applied for the nickel violations for 2011 and 2012, since the facility submitted its forms for nickel for 2011 and 2012 less than a year late. Specifically, the 2011 and 2012 forms for nickel were submitted on 10/9/12 (100 days late) and 6/6/14 (340 days late), respectively. Nominally, a Form R submitted less than a year late is

ENFORCEMENT RESPONSE POLICY FOR SECTION 313 OF
THE EMERGENCY PLANNING COMMUNITY RIGHT-TO-KNOW ACT (1986)
AND
SECTION 6607 OF THE POLLUTION PREVENTION ACT (1990)
[AMENDED]

Amended 1996, 1997, and 2001

April 12, 2001

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For purposes of this document, "EPCRA," "§313" and EPCRA "EPCRA §313" should be understood to include the requirements of the Pollution Prevention Act.

LEVELS OF ACTION

Enforcement alternatives include: (a) no action; (b) notices of noncompliance; (c) civil administrative penalties (d) civil judicial referrals, and (e) criminal action under 18 U.S. Code 1001.

EPA reserves the right to issue a Civil Administrative Penalty for any violation not specifically identified under the Notice of Noncompliance or Administrative Civil Penalty section.

NO ACTION

Revisions to Form R reports

Generally, an enforcement action will not be taken regarding voluntary changes to correctly reported data in Form R reports. Changes to Form R reports are: revisions to original reports which reflect only improved or new information and/or improved or new procedures which were not available when the facility was completing its original submission. Facilities submitting revisions should maintain records to document that the information used to calculate the revised estimate is new and was not available at the time the first estimate was made. A facility which submits a revision to a Form R report which does not meet this description of a change or otherwise calls into question the basis for the initial data reported on the original Form R report will be subject to an enforcement action.

Discussion

Each Form R report must provide estimated releases: it is not acceptable to submit Form R reports with no estimate(s) of releases. Such reports will be considered incomplete reports and subject to an enforcement action as described below. An estimate of "zero" is acceptable if "zero" is a reasonable estimate of a facility's releases based on readily available information, i.e., monitoring data or emission estimates.

Every Form R report submitted after July 1 for a chemical not previously submitted is not a revision, but a failure to report in a timely manner.

responsibility of EPA and are subject to a civil administrative penalty for "failure to report in a timely manner" violation.

NOTE: The Agency reserves the right to assess a Civil Administrative Complaint for certain data quality errors; see page five for a definition of these types of errors. Generally, these are errors which cannot be detected during the data entry process.

Discussion

A Notice of Noncompliance (NON) is the appropriate response for certain errors on Form R reports detected by the Agency. Generally, these are errors which prevent the information on the Form R from being entered into EPA's database. The NON will state that corrections must be made within a specified time (30 days from receipt of the NON). Failure to correct any error for which a NON is issued may be the basis for issuance of a Civil Administrative Complaint.

The decision to issue NONs for the submission of a Form R report with a trade secret claim without a sanitized version, or of the sanitized version without the trade secret information, is being treated the same as a Form R report with errors. This is a violation of EPCRA §313 as well as the trade secret requirements of EPCRA.

CIVIL ADMINISTRATIVE COMPLAINTS

A Civil Administrative Complaint will be the appropriate response for: failure to report in a timely manner; data quality errors; failure to respond to a NON; repeated violations; failure to supply notification and incomplete or inaccurate supplier notification; and failure to maintain records and failure to maintain records according to the standard in the regulation.

Definitions:

Failure to Report in a Timely Manner. This violation includes the failure to report in a timely manner to either EPA or to the state for each chemical on the list. There are two distinct categories for this violation. A circumstance level one penalty will be assessed against a category I violation. A "per day" formula is used to determine category II penalties; see this per day formula on page 13.

- o Category I: Form R reports that are submitted one year or more after the July 1 due date.
- o Category II: Form R reports that are submitted after the July 1 due date but before July 1 of the following year.

- o Under the requirements of §6607 of the Pollution Prevention Act of 1990, claiming past or current year source reduction or recycling activities which are not in fact implemented by the facility. This does not apply to activities which the facility may estimate for future years.
- o A facility's Form R reporting demonstrates a pattern of similar errors or omissions as manifested by the issuance by EPA of NONs for two or more reporting years for the same or similar errors or omissions.

NOTE: If an error is made in determining a facility's toxic chemical threshold which results in the facility erroneously concluding that a Form R report for that chemical is not required, this is not a data quality error, but a "failure to report in a timely manner" violation.

Failure to respond to an NON When a facility receives a Notice of Noncompliance (NON) and fails to comply with the Notice of Noncompliance, i.e., fails to correct the information EPA requests to be corrected in the NON by the time period specified in the NON, the violation is "failure to respond to an NON." Included here is the failure to also provide the state with corrected information requested in the NON within 30 days of receiving the NON.

Repeated violation This category of violation only applies to violations which would generally warrant an NON for the first time. A repeated violation is any subsequent violation which is identical or very similar to a prior violation for which an NON was issued. Separate penalty calculation procedures (discussed on page 16 under "history of prior violations") are to be followed for violations which warrant a civil administrative complaint for the first violation and are repeated.

Failure to Supply Notification Under 40 CFR §372.45, certain facilities which sell or otherwise distribute mixtures or trade name products containing §313 chemicals are required to supply notification to (i) facilities described in §372.22, or (ii) to persons who in turn may sell or otherwise distribute such mixtures or products to a facility described in §372.22(b) in accordance with paragraph §372.45(b). Failure to comply with 40 CFR §372.45, in whole or in part, constitutes a violation. A violation will be "failure to supply notification" or "incomplete or inaccurate supplier notification."

Failure to Maintain Records Under 40 CFR §372.10, each person subject to the reporting requirements of 40 CFR §372.30 must retain records documenting and supporting the information submitted on each Form R report. Additionally, under 40 CFR

To determine the gravity-based penalty, the following factors affecting a violation's gravity are considered:

- o the "circumstances" of the violation
- o the "extent" of the violation

The circumstance levels of the matrix take into account the seriousness of the violation as it relates to the accuracy and availability of the information to the community, to states, and to the federal government. Circumstance levels are described on pages 11-13.

The extent level of a violation is based on the quantity of each EPCRA §313 chemical manufactured, processed, or otherwise used by the facility; the size of the facility based on a combination of the number of employees at the violating facility; and the gross sales of the violating facility's total corporate entity. The Agency will use the number of employees and the gross sales at the time the civil administrative complaint is issued in determining the extent level of a violation.

To determine the gravity-based penalty, determine both the circumstance level and the extent level. These factors are incorporated into a matrix which establishes the appropriate gravity-based penalty amount. The penalty is determined by calculating the penalty for each violation on a per-chemical, per-facility, per-year basis (see special circumstances for per day penalties on page 13).

Once the gravity-based penalty has been determined, upward or downward adjustments to the proposed penalty amount may be made in consideration of the following factors:

- o Voluntary Disclosure
- o History of prior violation(s)
- o Delisted chemicals
- o Attitude
- o Other Factors as Justice May Require
- o Supplemental Environmental Projects
- o Ability to Pay

The first three of these adjustments may be made prior to issuing the civil complaint.

EXTENT LEVELS

In the table below, the total corporate entity refers to all sites taken together owned or controlled by the domestic or foreign parent company. EPA Regions have discretion to use those figures for number of employees and total corporate sales which

of making useful data available to the public is the supplier notification requirement of §313, as a significant amount of toxic chemicals are distributed in mixtures and trade name products. An additional goal of §313 is to ensure that purchasers of §313 chemicals are informed of their potential §313 reporting requirements. The extent levels underscore this goal as well.

The size of business is used as a second factor in determining the appropriate extent level to reflect the fact that the deterrent effect of a smaller penalty upon a small company is likely to be equal to that of a larger penalty upon a large company. Ten times the threshold for distinguishing between extent levels was chosen because it represents a significant amount of chemical substance. Thus, the two factors, the amount of §313 chemical involved and the size of business, are combined and used to determine the extent level table.

Base Penalty Matrices For Violations Which Occur After January 30, 1997

**EPCRA § 313
GRAVITY BASED PENALTY MATRIX**

CIRCUMSTANCES LEVELS	EXTENT		
	A Major	B Significant	C Minor
1	\$27,500	\$18,700	\$5,500
2	\$22,000	\$14,300	\$3,300
3	\$16,500	\$11,000	\$1,650
4	\$11,000	\$6,600	\$1,100
5	\$5,500	\$3,300	\$550
6	\$2,200	\$1,430	\$220

*Gravity Based Penalty Matrix to supplement the "Final EPCRA §313 Enforcement Response Policy" (8/10/92). Insert behind page 11 of the "Final EPCRA §313 Enforcement Response Policy" (8/10/97).

MULTIPLE VIOLATIONS

Separate penalties are to be calculated for each chemical for each facility. If a company has three facilities and fails to report before July 1 of the year following the year the report was due, a penalty is to be assessed for each facility and for each chemical. Assuming the annual sales of the corporate entity exceed \$10 million dollars, the facility has more than 50 employees, and each facility exceeds the threshold limits by more than ten times, the penalty would be \$25,000 X 3 or \$75,000. If each facility manufactured two chemicals, again at more than ten times the threshold, the penalty would be \$25,000 X 3 X 2 or \$150,000.

If there is more than one violation for the same facility involving the same chemical, the penalties are cumulative. For example, if a firm reports more than one year after the report was due, and the form also contains errors which the firm refused to correct after receiving a NON, the penalty is \$25,000 plus \$15,000. However, since it is the same form involved, and since the statute imposes a maximum of \$25,000 per violation for each day the violation continues, the penalty which will be assessed should be the one day \$25,000 maximum.

PER DAY PENALTIES

Generally, penalties of up to \$25,000 per day may be assessed if a facility within the corporate entity has received a Civil Administrative Complaint, which has been resolved, for failing to report under §313 for any two previous reporting periods. A Civil Administrative Complaint is resolved by a payment, a Consent Agreement and Final Order, or a Court Order.

Penalties of up to \$25,000 per day may also be used for those facilities which refuse to submit reports or corrected information within thirty days after a Civil Administrative Complaint is resolved. Such refusal may be the basis for issuing a new Civil Administrative Complaint to address the days of continuing noncompliance after the initial Civil Administrative Complaint is resolved. For example, a respondent may respond to a Civil Administrative Complaint by paying the full penalty, yet not correct the violation; in such a situation, a new Civil Administrative Complaint should be issued.

PER DAY FORMULA FOR FAILURE TO REPORT IN A TIMELY MANNER

The following per day penalty calculation formula is to be used only for violations involving failure to report on or before July 1 of the year the report is due and before July 1 of the following year:

This enforcement response policy establishes two reductions in penalties for voluntary disclosure of violations; the first reduction is a fixed 25%; the second reduction is capped at 25% and can be applied in full or in part according to the extent to which the facility meets the criteria for the second 25% reduction. All facilities which voluntarily disclose violations of §313 (except those identified below) are eligible for the first fixed 25%. The voluntary disclosure reductions apply to the following violations: failure to report in a timely manner, category I and II; and failure to supply notification.

In order to obtain the second reduction for voluntary disclosure a facility must meet the following criteria and explain and certify in writing how the facility meets these criteria:

- o The violation was immediately disclosed within 30 days of discovery by the facility.
- o The facility has undertaken concrete actions to ensure that the facility will be in compliance with EPCRA §313 in the future. Such steps may include but are not limited to: creating an environmental compliance position and hiring an individual for that position; changing the job description of an existing position to include managing EPCRA compliance requirements; and contracting with an environmental compliance consulting firm.
- o For supplier notification violations, the facility provides complete and accurate supplier notification to each facility or person described in §372.45(a) within 60 days of notifying EPA of the violation.
- o The facility does not have a "history of violation" (see below) for EPCRA §313 for the two reporting years preceding the calendar year in which the violation is disclosed to EPA.

This policy is designed to distinguish between those facilities which make an immediate attempt to comply with §313 as soon as noncompliance with §313 is discovered and those which do not.

This enforcement response policy does not allow for voluntary disclosure adjustments in penalties for the following violations because these violations will, in almost all circumstances, be discovered by EPA: failure to maintain records, failure to maintain records according to the standard in the regulation, failure to submit Form R reports containing error corrections or revisions to the state, and failure to supply

(b) To be considered a "prior such violation," the violation must have occurred within five years of the present violation. Generally, the date used for the present violation will be one day after July 1 of the year the Form R report was due for failure to report, data quality errors, recordkeeping violations, and supplier notification violations. For other violations, the date of the present violation will be the date the facility was required to come into compliance; for example, for a "failure to respond" violation, the date of the present violation will be the last day of the 30 day period the facility had to respond to a Notice of Noncompliance. This five-year period begins when the prior violation becomes a final order. Beyond five years, the prior violative conduct becomes too distant to require compounding of the penalty for the present violation.

(c) Generally, companies with multiple establishments are considered as one when determining history. Thus, if a facility is part of a company for which another facility within the company has a "prior such violation," then each facility within the company is considered to have a "prior violation." However, two companies held by the same parent corporation do not necessarily affect each other's history if they are in substantially different lines of business, and they are substantially independent of one another in their management, and in the functioning of their Boards of Directors. In the case of wholly- or partly-owned subsidiaries, the violation history of a parent corporation shall apply to its subsidiaries and that of the subsidiaries to the parent corporation.

(d) For one prior violation, the penalty should be adjusted upward by 25%. If two prior violations have occurred, the penalty should be adjusted upward by 50%. If three or more prior violations have occurred, the penalty should be adjusted upward by 100%.

(e) A "prior violation" refers collectively to all the violations which may have been described in one prior Administrative Civil Complaint or CAFO. Thus, "prior violation" refers to an episode of prior violation, not every violation that may have been contained in the first Civil Administrative Complaint or CAFO/CACO.

Delisted Chemicals

For delisted chemicals, an immediate and fixed reduction of 25% can be justified in all cases according the following policy:

If the Agency has delisted a chemical by a final Federal Register Notice, the Agency may settle cases involving the delisted chemical under terms which provide for a 25% reduction

Settlement With Conditions (SWC)

Supplemental Environmental Projects (SEPs):

Circumstances may arise where a violator will offer to make expenditures for environmentally beneficial purposes above and beyond those required by law in lieu of paying the full penalty. The Agency, in penalty actions in the U.S. District Courts under the Clean Air Act and Clean Water Acts, and in administrative penalty actions under the Toxic Substances Control Act, has determined that crediting such expenditures is consistent with the purpose of civil penalty assessment. Although civil penalties under EPCRA §313 are administratively assessed, the same rationale applies. This adjustment, which constitutes a credit against the actual penalty amount, will normally be discussed only in the course of settlement negotiations.

Other Settlements With Conditions may be considered by EPA Regional Offices as appropriate.

Before the proposed credit amounts can be incorporated into a settlement, the complainant must assure himself/herself that the company has met the conditions as set forth in current or other program specific policy guidance. The settlement agreement incorporating a penalty adjustment for an SEP or any other SWC should make clear what the actual penalty assessment is, after which the terms of the reduction should be clearly spelled out in detail in the CAFO/CACO. A cash penalty must always be collected from the violator regardless of the SEPs or SWCs undertaken by the company. Finally, in accordance with Agency-wide settlement policy guidelines, the final penalty assessment contained in the CACO/CAFO must not be less than the economic benefit gained by the violator from noncompliance.

Ability to Pay

Normally, EPA will not seek a civil penalty that exceeds the violator's ability to pay. The Agency will assume that the respondent has the ability to pay at the time the complaint is issued if information concerning the alleged violator's ability to pay is not readily available. Any alleged violator can raise the issue of its ability to pay in its answer to the civil complaint, or during the course of settlement negotiations.

If an alleged violator raises the inability to pay as a defense in its answer, or in the course of settlement negotiations, it shall present sufficient documentation to permit the Agency to establish such inability. Appropriate documents will include the following, as the Agency may request, and will be presented in the form used by the respondent in its ordinary course of business:

AMENDMENT for 1991 Reporting Year Only

Due to the unusual circumstances in finalizing and distributing the revised Form R for use beginning with calendar year 1991 reports (reports due on July 1, 1992), the following amendment to the Enforcement Response Policy is issued:

Penalty Assessment for Failure to Report in a Timely Manner

One element of the Per Day Penalty Formula on page 14 is the number of days late a facility submits its Form R reports. For the 1991 reporting year only, the number of days late will be calculated beginning on September 2, 1992. Thus, if a facility submits its Form R report on September 15, 1992, the number of days late should be calculated as 14.

ALTERNATE THRESHOLD EXEMPTION ERP AMENDMENT

December 6, 1996

VIOLATION

Failure to File annual certification in a timely manner - Circumstance Level 1

VIOLATION

Filing an annual certification in lieu of the Form R, when facility did not qualify for the exemption - Circumstance Level 3

VIOLATION

Recordkeeping

- a) Failure to maintain records as prescribed at 40 CFR §372.10(d).
Circumstance Level 2

- b) Failure to maintain complete records as prescribed at 40 CFR §372.10(d)
Circumstance Level 4

96% of the *actual amount reported, 2500 pounds*. Therefore, Facility X may be subject to a Civil Administrative Complaint for "Failing to Submit an Accurate and Complete Report," due to "Significant Data Quality Errors."

- ✓ The difference between reported releases and transfers and corrected releases and transfers is greater than 2500 pounds but less than 20,000 pounds, and the *difference between the corrected amount and the actual amount reported* reflects greater than a 25% increase of the reported amount.

Example: Facility X reports 12,000 pounds of chemical Y releases to air in its Form R. EPA discovers that Facility X should have reported 17,000 pounds of chemical Y releases to air. Facility X under reported chemical Y by 5,000 pounds. This instance of under reporting, *5000 pounds, is greater than 2500 pounds, but less than 20,000 pounds and represents 42% of the actual amount reported*. Therefore, Facility X may be subject to a Civil Administrative Complaint for "Failing to Submit an Accurate and Complete Report," due to "Significant Data Quality Errors."

- ✓ The difference between reported releases and transfers, and corrected releases and transfers is greater than or equal to 20,000 pounds, and the *difference between the corrected amount and the actual amount reported* reflects greater than or equal to a 15% increase of the reported amount.

Example: Facility X reports 125,000 pounds of chemical Y releases to land in its Form R. EPA discovers that Facility X should have reported 155,000 pounds of chemical Y releases to land. Facility X under reported chemical Y by 30,000 pounds. This instance of under reporting, *30,000 pounds is greater than 20,000 pounds and represents 24% of the actual amount reported, 125,000 pounds*. Therefore, Facility X may be subject to a Civil Administrative Complaint for "Failing to Submit an Accurate and Complete Report," due to "Significant Data Quality Errors."

- Significant Errors Identifying Chemical Use: Failure to identify all appropriate categories of chemical use, resulting in error(s) in estimates of release or off-site transfers.
- Significant Errors Reporting Treatment or Disposal Data: Failure to identify for each waste stream the waste treatment or disposal methods

TABLE 1 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. code citation	Environmental statute	Statutory penalties, as enacted	Penalties effective after January 30, 1997 through March 15, 2004	Penalties effective after March 15, 2004 through January 12, 2009	Penalties effective after January 12, 2009
42 U.S.C. 300f(b)	SDWA	15,000	15,000	16,500	16,500
42 U.S.C. 300f-1(c)	SDWA	20,000/50,000	322,000/ 55,000	100,000/ 1,000,000	110,000/ 1,100,000
42 U.S.C. 300f(e)(2)	SDWA	2,500	2,750	2,750	3,750
42 U.S.C. 300f-4(c)	SDWA	25,000	27,500	32,500	37,500
42 U.S.C. 300f-6(b)(2)	SDWA	25,000	25,000	27,500	32,500
42 U.S.C. 300f-23(d)	SDWA	5,000/50,000	5,500/55,000	6,500/65,000	7,500/70,000
42 U.S.C. 4852d(b)(5)	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992	10,000	11,000	11,000	16,000
42 U.S.C. 4910(a)(2)	NOISE CONTROL ACT OF 1972	10,000	11,000	11,000	16,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)	25,000	27,500	32,500	37,500
42 U.S.C. 6928(c)	RCRA	25,000	27,500	32,500	37,500
42 U.S.C. 6928(g)	RCRA	25,000	27,500	32,500	37,500
42 U.S.C. 6928(h)(2)	RCRA	5,000	5,500	6,500	7,500
42 U.S.C. 6934(e)	RCRA	5,000	5,500	6,500	7,500
42 U.S.C. 6973(b)	RCRA	25,000	27,500	32,500	37,500
42 U.S.C. 6991e(a)(3)	RCRA	10,000	11,000	11,000	16,000
42 U.S.C. 6991e(d)(1)	RCRA	10,000	11,000	11,000	16,000
42 U.S.C. 6991e(d)(2)	RCRA	25,000	27,500	32,500	37,500
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA)	25,000	27,500	32,500	37,500
42 U.S.C. 7413(d)(1)	CAA	200,000	220,000	270,000	295,000
42 U.S.C. 7413(d)(3)	CAA	5,000	5,500	6,500	7,500
42 U.S.C. 7524(a)	CAA	2,500/25,000	2,750/27,500	2,750/32,500	3,750/37,500
42 U.S.C. 7524(c)(1)	CAA	200,000	220,000	270,000	295,000
42 U.S.C. 7545(d)(1)	CAA	25,000	27,500	32,500	37,500
42 U.S.C. 9604(e)(5)(B)	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)	25,000	27,500	32,500	37,500
42 U.S.C. 9606(b)(1)	CERCLA	25,000	27,500	32,500	37,500
42 U.S.C. 9609(a)(1)	CERCLA	25,000/75,000	27,500/82,500	32,500/97,500	37,500/ 107,500
42 U.S.C. 9609(b)	CERCLA	25,000/75,000	27,500/82,500	32,500/97,500	37,500/ 107,500
42 U.S.C. 11045(a)	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)	25,000	27,500	32,500	37,500
42 U.S.C. 11045(b)	EPCRA	25,000/75,000	27,500/82,500	32,500/97,500	37,500/ 107,500
42 U.S.C. 11045(c)(1)	EPCRA	25,000	27,500	32,500	37,500
42 U.S.C. 11045(c)(2)	EPCRA	10,000	11,000	11,000	16,000
42 U.S.C. 11045(d)(1)	EPCRA	25,000	27,500	32,500	37,500
42 U.S.C. 14304(a)(1)	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT)	10,000	10,000	11,000	16,000



U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppcindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs: (800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttn/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman



**NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE
ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:

Eagle Brass Company,

Respondent,

Eagle Brass Company
1243 Old Bernville Road
Leesport, PA 19533-9115,

Facility.

Docket No. EPCRA-III-2015-0127

Administrative Complaint
and Notice of Opportunity for Hearing
Under EPCRA §§ 313 and
325; 42 U.S.C. §§ 11023
and 11045

REGIONAL HEARING OFFICE
EPA REGION III PHILA. PA

2015 JUN 30 PM 2:44

RECEIVED

COMPLAINT

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Section 325 of the Emergency Planning and Community Right to Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045. The Administrator has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 25 – 3 dated May 11, 1994, and this authority was further delegated to the Director of the Land and Chemicals Division, EPA Region III, (Complainant), who issues this Complaint for violations of Section 313 of EPCRA, 42 U.S.C. § 11023 and alleges the following:

COUNT I

1. Section 313 of EPCRA, 42 U.S.C. § 11023 and 40 C.F.R. § 372.30, requires, in pertinent part, that the owner or operator of a facility that:

- 1) has 10 or more employees;
- 2) has a primary Standard Industrial Classification (SIC) code (as in effect on July 1, 1987) between Major Groups 20 and 39; and
- 3) "manufactured," "processed" or "otherwise used" a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities stated under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.25, during the calendar year for which reporting is required to:

complete and submit a toxic chemical release inventory reporting EPA Form R (Form R) for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the next calendar year.

2. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures and other stationary items that are located on a single site and that are owned or operated by the same person.
3. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include any corporation.
4. Section 313(b)(1)(C)(ii) of EPCRA, 42 U.S.C. § 11023(b)(1)(C)(ii), defines "process" to mean the preparation of a toxic chemical, after its manufacture, for distribution in commerce: (I) in the same form or physical state as, or in a different form or physical state from, that which it was received by the person so preparing the chemical, or (II) as part of an article containing the toxic chemical.

5. Eagle Brass Company ("Respondent") is a privately owned company with its principal place of business located at 1243 Old Bernville Road, Leesport, Pennsylvania.
6. At all times relevant to the Complaint, Respondent owned and operated a manufacturing operation located on 1243 Old Bernville Road, Leesport, Pennsylvania.
7. Respondent's manufacturing operation, located on 1243 Old Bernville Road, Leesport, Pennsylvania is a "facility" under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3. (hereinafter the "Facility").
8. Respondent had 10 or more full-time employees at the Facility during each of the calendar years 2010, 2011, and 2012.
9. Respondent's Facility had a primary SIC code of 3331 during each of the calendar years 2010, 2011, and 2012.
10. Respondent's SIC code of 3331 falls between Major Group SIC Codes of 20 and 39 (as in effect on July 1, 1987).
11. Copper is a "toxic chemical" as defined by 40 C.F.R. § 372.3 and listed in 40 C.F.R. § 372.65.
12. Pursuant to Section 313(f)(1) of EPCRA, 42 U.S.C. § 11023(f)(1) and 40 C.F.R. § 372.25, the threshold quantity for a toxic chemical which is "processed" at a "facility" in calendar year 1989 and thereafter is 25,000 pounds.
13. EPA conducted a June 3, 2014 through July 17, 2014 review of Respondent's compliance, at the Facility, with the requirements of EPCRA Section 313 and 40 C.F.R. Part 372.

14. Respondent "processed" more than 25,000 pounds of copper at the Facility in calendar year 2010.

15. Respondent did not submit a completed toxic chemical release form (Form R) for the toxic chemical copper that it processed at the Facility during the 2010 calendar year to the Administrator of EPA or to the Commonwealth of Pennsylvania (hereinafter "State") by July 1, 2011.

16. Respondent's failure to submit the required toxic chemical release form (Form R) to the Administrator of EPA or to the State for the toxic chemical copper, by July 1, 2011, is a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

COUNT II

17. The preceding paragraphs are incorporated by reference.

18. Respondent "processed" more than 25,000 pounds of the toxic chemical copper at the Facility in calendar year 2011.

19. Respondent did not submit a completed toxic chemical release form (Form R) for the toxic chemical copper that it processed at the Facility during the 2011 calendar year to the Administrator of EPA or to the State by July 1, 2012.

20. Respondent's failure to submit the required toxic chemical release form (Form R) to the Administrator of EPA or to the State for the toxic chemical copper, by July 1, 2012, is a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

COUNT III

21. The preceding paragraphs are incorporated by reference.

22. Respondent "processed" more than 25,000 pounds of the toxic chemical copper at the Facility in calendar year 2012.
23. Respondent did not submit a completed toxic chemical release form (Form R) for the toxic chemical copper that it processed at the Facility during the 2012 calendar year to the Administrator of EPA or to the State by July 1, 2013.
24. Respondent's failure to submit the required toxic chemical release form (Form R) to the Administrator of EPA or to the State for the toxic chemical copper, by July 1, 2013, is a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

PROPOSED PENALTY

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), the Federal Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C § 3701 and 40 C.F.R. Part 19, any person who violates any requirements of Section 313) of EPCRA, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty in an amount not to exceed \$37,500 for each such violation; that each day a violation continues under Section 313) of EPCRA, 42 U.S.C. § 11023, constitutes a separate violation; and that civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by administrative order. On the basis of the violations of EPCRA described above, Complainant has determined that Respondent is subject to civil penalties under EPCRA Section 325, 42 U.S.C. § 11045. Accordingly, Complainant proposes to assess penalties in the amount of \$38,360 pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), as set forth below:

COUNT I: Failure to submit a toxic chemical release form for the toxic chemical copper for the 2010 reporting year constitutes a “Circumstance Level 1” violation (failure to report in a timely manner). For reporting year 2010, Respondent had less than 50 employees at the Facility and processed less than ten times the threshold quantity for copper, which constitutes an “Extent Level C” violation.

Count I Penalty: \$7,090

COUNT II: Failure to submit a toxic chemical release form for the toxic chemical copper for the 2011 reporting year constitutes a “Circumstance Level 1” violation (failure to report in a timely manner). For reporting year 2011, Respondent had less than 50 employees at the Facility and processed more than ten times the threshold quantity for copper, which constitutes an “Extent Level B” violation.

Count II Penalty: \$24,080

COUNT III: Failure to submit a toxic chemical release form for the toxic chemical copper for the 2012 reporting year constitutes a “Circumstance Level 1” violation (failure to report in a timely manner). For reporting year 2012, Respondent had less than 50 employees at the Facility and processed less than ten times the threshold quantity for copper, which constitutes an “Extent Level C” violation.

Count III Penalty: \$7,090

TOTAL PROPOSED PENALTY \$38,360

The proposed penalty was determined in accordance with EPA's April 12, 2001 Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-To-Know Act (1986), The Federal Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461, *et seq.*, and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19. The proposed penalty does not constitute a “demand” as that term is used in the Equal Access to Justice Act, 28 U.S.C. § 2412.

QUICK RESOLUTION

In accordance with 40 C.F.R. § 22.18(a) of the *Consolidated Rules of Practice*, Respondent may resolve this proceeding at any time by paying, in full, the specific penalty proposed in this Complaint or in Complainant's subsequent prehearing exchange. If Respondent pays the specific penalty proposed in this Complaint within thirty (30) days of receiving this Complaint, then, pursuant to 40 C.F.R. § 22.18(a)(1) of the Consolidated Rules of Practice, no Answer need be filed.

If Respondent wishes to resolve this proceeding by paying the penalty proposed in this Complaint instead of filing an Answer, but needs additional time to pay the penalty, pursuant to 40 C.F.R. § 22.18(a)(2) of the Consolidated Rules of Practice, the Respondent may file a written statement with the Regional Hearing Clerk within thirty (30) days after receiving this Complaint stating that Respondent agrees to pay the proposed penalty in accordance with 40 C.F.R. § 22.18(a)(1). Such written statement need not contain any response to, or admission of, the allegations in the Complaint. Such statement shall be filed with the Regional Hearing Clerk (3RC00), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and a copy shall be provided to Joyce A. Howell (3RC30), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. Within sixty (60) days of receiving the Complaint, Respondent shall pay the full amount of the proposed penalty. Failure to make such payment within sixty (60) days of receipt of the Complaint may subject the Respondent to default pursuant to 40 C.F.R. § 22.17 of the *Consolidated Rules of Practice*.

Upon receipt of payment in full, in accordance with 40 C.F.R. § 22.18(a)(3) of the *Consolidated Rules of Practice*, the Regional Judicial Officer or Regional Administrator shall issue a final order. Payment by the Respondent shall constitute a waiver of Respondent's right to contest the allegations and to appeal the final order.

Payment of the penalty shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. Payment by Respondent shall reference Respondents' name, address and the Docket Number of this action (*Docket No. EPCRA-03-2015-0127*).
- b. All checks shall be made payable to "**United States Treasury**".
- c. All payments made by check and sent by Regular U.S. Postal Service Mail shall be addressed and mailed to:

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

Customer service contact: 513-487-2091

- d. All payments made by check and sent by Private Commercial Overnight Delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. 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”

- g. 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: 866-234-5681

- h. On-Line Payment Option

WWW.PAY.GOV/paygov/
Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

At the time of payment, Respondent simultaneously shall send a notice of payment, *including a copy of the check or other instrument of payment, as applicable, to:*

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

and to

Joyce A. Howell (3RC30)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Respondent may request, within 20 days of receipt of this Complaint, a hearing before an EPA Administrative Law Judge on the Complaint. At such hearing, Respondent may contest any material fact and the appropriateness of any penalty amount. To request a hearing, Respondent must file a written answer ("Answer") within thirty (30) days of receipt of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Answer should so state. Such a statement is deemed to be a denial of the allegation. The Answer should contain: (1) a statement of the facts which constitute the grounds of a defense; (2) a concise statement of the facts which Respondent intends to place at issue in any hearing; and (3) a statement of whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered to be admitted.

If Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to Answer shall result in the filing of a Motion for Default Order and the possible issuance of a Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested by Respondent will be conducted in accordance with EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. Part 22, (hereinafter "Consolidated Rules"), a copy of which is enclosed. Respondent must send any Answer and request for a hearing to:

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

SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, an informal conference may be requested in order to discuss the facts of this case and to attempt to arrive at a settlement. To request an informal settlement conference, please contact Joyce A. Howell (3RC30), Senior Assistant Regional Counsel, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, telephone (215) 814-2644.

Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written Answer and request for hearing must be submitted as set forth above. The informal settlement conference procedure, however, may be pursued simultaneously with the adjudicatory hearing procedure.

EPA encourages all parties against whom a civil penalty is proposed to pursue the possibilities of settlement in an informal conference. In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee, the Regional Judicial Officer. Settlement conferences shall not affect the requirement to file a timely Answer to the Complaint.

SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

The following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Region III Office of Regional Counsel, the Region III Land and Chemicals Division, the Office of the EPA Assistant Administrator for the Office of Solid Waste and Emergency Response, and the Office of the EPA Assistant Administrator for Office of Enforcement and Compliance Assurance. From the date of this Complaint until the final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an ex parte communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules, 40 C.F.R. Part 22, prohibit any unilateral discussion or ex parte communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, or the Regional Judicial Officer, after issuance of a Complaint.

Dated: 6.1.15



John A. Armstead, Director

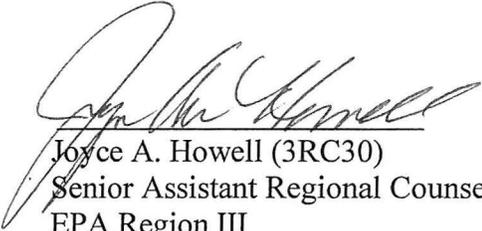
CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by UPS Next Day Delivery, a copy of this Complaint, a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. Part 22, a copy of EPA's April 12, 2001 Enforcement Response Policy for Section 313 of Emergency Planning and Community Right-to Know Act (1986), a copy of the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19 and the November 16, 2009 Kelley Memorandum, "Adjusted Penalty Policy Matrices based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule" to the addressee(s) listed below. The original and one copy of this Complaint, and of each of the additional documents identified above, were hand-delivered to, and filed with, the Regional Hearing Clerk, U.S. EPA Region III.

Mr. Charles J. Bernard, President
Eagle Brass Company
1243 Old Bernville Road
Leesport, Pennsylvania 19533 – 9115

James E. Gavin, Esq.
Masano Bradley
Suite 201
1100 Berkshire Boulevard
Wyomissing, PA 19610

Dated: Jun 4, 2015


Joyce A. Howell (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103

RECEIVED
2015 JUN 24 PM 2:44
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:

:
: Docket No. EPCRA-III-2015-0127

Eagle Brass Company,

Respondent

Eagle Brass Company
1243 Old Bernville Road
Leesport, PA 19533-9115,

Facility

: Answer to Administrative Complaint
: and Notice of Opportunity for Hearing
: Under EPCRA §§313 and 325; 42 U.S.C.
: §§11023 and 11045

REGIONAL HEARING CLERK
EPA REGION III, PHILADELPHIA

2015 JUN 22 PM 3:54

RECEIVED

ANSWER TO COMPLAINT TOGETHER WITH AFFIRMATIVE DEFENSES

NOW COMES, the Respondent, Eagle Brass Company, by and through counsel, answering the Complaint of the United States Environmental Protection Agency and, in furtherance thereof, states that:

COUNT I

1. Denied. The allegations contained in paragraph 1 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required and to the extent that the allegations contained in paragraph 1 refer to statutory and regulatory authority, the same being in writing, they speak for themselves and no further responsive pleading is required.

2. Denied. The allegations contained in paragraph 2 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To

the extent that a response is nevertheless required and to the extent that the allegations contained in paragraph 2 refer to statutory and regulatory authority, the same being in writing, they speak for themselves and no further responsive pleading is required.

3. Denied. The allegations contained in paragraph 3 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required and to the extent that the allegations contained in paragraph 3 refer to statutory and regulatory authority, the same being in writing, they speak for themselves and no further responsive pleading is required.

4. Denied. The allegations contained in paragraph 4 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required and to the extent that the allegations contained in paragraph 4 refer to statutory and regulatory authority, the same being in writing, they speak for themselves and no further responsive pleading is required.

5. Admitted.

6. Admitted.

7. Denied. The allegations contained in paragraph 7 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is admitted that the Respondent operates a manufacturing operation that is located at 1243 Old Bernville Road in Leesport, Pennsylvania.

8. Admitted.

9. Admitted.

10. Admitted.

11. Denied. The allegations contained in paragraph 11 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required and to the extent that the allegations contained in paragraph 11 refer to statutory and regulatory authority, the same being in writing, they speak for themselves and no further responsive pleading is required.

12. Denied. The allegations contained in paragraph 12 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required and to the extent that the allegations contained in paragraph 12 refer to statutory and regulatory authority, the same being in writing, they speak for themselves and no further responsive pleading is required.

13. Denied. After reasonable investigation, the Respondent lacks the knowledge or information sufficient to form a belief as to whether or not the EPA conducted a June 3, 2014 through July 17, 2014 review of Respondent's compliance with the requirements of EPCRA §313 and 40 CFR Part 372. Strict proof, if relevant, is demanded at the time of hearing.

14. Denied. The allegations contained in paragraph 14 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent processed more than 25,000 pounds of copper at its facility in the calendar year of 2010. To the contrary, to the extent that the Respondent processed metal that is the subject of this Complaint, it processed an alloy that contained nickel and copper. By way of further response, the processing of the alloy was properly and timely reported to the EPA. Strict proof to the contrary, if relevant, is demanded at the time of hearing.

15. Denied. The allegations contained in paragraph 15 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent did not submit a completed toxic chemical release form (Form R) for the toxic chemical copper during the calendar year of 2010. To the contrary, the Respondent did not process the toxic chemical copper. To the contrary, it processed an alloy that contained nickel and copper. Furthermore, the Respondent submitted a Form R to the administrator of the EPA and/or the Commonwealth of Pennsylvania by July 1, 2011 that fully and accurately reported the amount of the alloy that had been processed. Strict proof to the contrary, if relevant, is demanded at the time of hearing.

16. Denied. The allegations contained in paragraph 16 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent failed to submit a toxic chemical release form. It is specifically denied that the Respondent is in violation of §313 of the EPCRA, 42 U.S.C. §11023, and 40 C.F.R. §372.30. Strict proof thereof, if relevant, is demanded at the time of hearing.

COUNT II

17. Denied. The allegations contained in paragraph 17 require no responsive pleading and are, accordingly, denied.

18. Denied. The allegations contained in paragraph 18 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent processed more than 25,000 pounds of copper at its facility in the calendar year of 2011. To the

contrary, to the extent that the Respondent processed metal that is the subject of this Complaint, it processed an alloy that contained nickel and copper. By way of further response, the processing of the alloy was properly and timely reported to the EPA. Strict proof to the contrary, if relevant, is demanded at the time of hearing.

19. Denied. The allegations contained in paragraph 19 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent did not submit a completed toxic chemical release form (Form R) for the toxic chemical copper during the calendar year of 2011. To the contrary, the Respondent did not process the toxic chemical copper. To the contrary, it processed an alloy that contained nickel and copper. Furthermore, the Respondent submitted a Form R to the administrator of the EPA and/or the Commonwealth of Pennsylvania by July 1, 2012 that fully and accurately reported the amount of the alloy that had been processed. Strict proof to the contrary, if relevant, is demanded at the time of hearing.

20. Denied. The allegations contained in paragraph 16 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent failed to submit a toxic chemical release form. It is specifically denied that the Respondent is in violation of §313 of the EPCRA, 42 U.S.C. §11023, and 40 C.F.R. §372.30. Strict proof thereof, if relevant, is demanded at the time of hearing.

COUNT III

21. Denied. The allegations contained in paragraph 21 require no responsive pleading and are, accordingly, denied.

22. Denied. The allegations contained in paragraph 22 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent processed more than 25,000 pounds of copper at its facility in the calendar year of 2012. To the contrary, to the extent that the Respondent processed metal that is the subject of this Complaint, it processed an alloy that contained nickel and copper. By way of further response, the processing of the alloy was properly and timely reported to the EPA. Strict proof to the contrary, if relevant, is demanded at the time of hearing.

23. Denied. The allegations contained in paragraph 23 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent did not submit a completed toxic chemical release form (Form R) for the toxic chemical copper during the calendar year of 2012. To the contrary, the Respondent did not process the toxic chemical copper. To the contrary, it processed an alloy that contained nickel and copper. Furthermore, the Respondent submitted a Form R to the administrator of the EPA and/or the Commonwealth of Pennsylvania by July 1, 2013 that fully and accurately reported the amount of the alloy that had been processed. Strict proof to the contrary, if relevant, is demanded at the time of hearing.

24. Denied. The allegations contained in paragraph 24 are deemed to be averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required. To the extent that a response is nevertheless required, it is specifically denied that the Respondent failed to submit a toxic chemical release form. It is specifically denied that the Respondent is in

violation of §313 of the EPCRA, 42 U.S.C. §11023, and 40 C.F.R. §372.30. Strict proof thereof, if relevant, is demanded at the time of hearing.

RESPONSE TO PROPOSED PENALTY

The Respondent, Eagle Brass Company, respectfully requests the proposed penalty of the EPA be denied in its entirety.

REQUEST FOR A HEARING

The Respondent, Eagle Brass Company, respectfully requests a hearing on the Complaint.

AFFIRMATIVE DEFENSES

First Defense

The Complaint herein and each cause of action thereof, fails to set forth facts sufficient to state a claim upon which relief may be granted against the Respondent and further fails to state facts sufficient to entitle the Complainant to the relief sought, or to any relief whatsoever from the Respondent.

Second Defense

The Complainant's claims may be barred, in whole or in part, by the applicable statutes of limitation.

Third Defense

The Complainant's claims may be barred, in whole or in part, by the doctrine of laches and/or waiver.

Fourth Defense

The Complainant's claims may be barred, in whole or in part, by the doctrine of estoppel.

Fifth Defense

The Complainant's claims may be barred, in whole or in part, by its failure to provide timely notice and/or its unreasonable delay in asserting a claim.

Sixth Defense

The Complainant's claims may be barred, in whole or in part, by the Complainant's failure to properly design a Toxic Chemical Release Form (Form R) that provides the facility with clear notice as to the information to be submitted to the Complainant.

Seventh Defense

The Complainant's claims may be barred, in whole or in part, by the Complainant's failure to properly give instruction or guidance to facilities on the proper execution and submission requirements of Toxic Chemical Release Forms (Form R).

Eighth Defense

The Complainant's claims may be barred, in whole or in part, by the doctrine of vested rights due to its prior acceptance of Form R from the Respondent without issuance of a notice of noncompliance.

Ninth Defense

The facts and circumstances as asserted in the Complaint do not give rise to a basis for a civil penalty.

Tenth Defense

At best, the facts and circumstances contained in the Complaint, if true, give rise to a notice of non-compliance.

Eleventh Defense

The Complainant has waived any civil administrative penalties by failing to issue a notice of non-compliance.

Twelfth Defense

The extent applicable, any civil penalty asserted by the Complainant has been incorrectly calculated.

Thirteenth Defense

The civil penalty asserted and alleged in the Complaint is excessive, unconscionable, and inequitable under the facts and circumstances of this case.

Fourteenth Defense

The civil penalty asserted and alleged in the complaint is an excessive fine and therefore, violates the Respondent's rights under the 8th Amendment of the United States Constitution and under the Pennsylvania Constitution.

Fifteenth Defense

The civil penalty asserted and alleged in the Complaint violates the Respondent's constitutional rights under the 5th, 6th, and 14th Amendments of the United States Constitution and under the Pennsylvania Constitution in that they are penal in nature and are tantamount to the imposition of a criminal fine, and the guidelines, standards and/or instructions ("Guidelines")

for the imposition of the civil penalty are vague, indefinite, and uncertain. Furthermore, these Guidelines do not appraise the Respondent of the conduct that will be subject to criminal penalties, and exposes the Respondent to multiple punishments and fines for the same acts, thereby discriminating against the Respondent on the basis of wealth and that different amounts can be awarded for the same acts against respondents who differ only in material wealth.

Sixteenth Defense

The Respondent requires the Complainant to prove its claim for a civil penalty by a minimum standard of clear and convincing evidence, as required by the 4th, 5th, 6th, and 14th Amendments of the United States Constitution and by the Pennsylvania Constitution. The Respondent further required the Complainant to prove its claim for a civil penalty beyond a reasonable doubt, as required by the 4th, 5th, 6th, and 14th Amendments of the United States Constitution and by the applicable provisions of the Pennsylvania Constitution.

Seventeenth Defense

The Respondent expressly reserves the right to assert additional affirmative defenses at such time and to such extent as warranted by the factual developments in this case.

Respectfully submitted,

MASANO ♦ BRADLEY



James E. Gavin, Esquire
Attorneys for Respondent,
Eagle Brass Company

CERTIFICATE OF SERVICE

I, James E. Gavin, Esquire, hereby certify that I have this 18th day of June 2015, served a true and correct copy of the Plaintiff's Answer to the Defendant's Motion for Sanctions Together with Affirmative Defenses upon the party listed below, via first-class mail, postage prepaid:

Attorney for Complainant:

Joyce A. Howell (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103

MASANO ♦ BRADLEY


James E. Gavin, Esquire

I am employed by the Eagle Brass Company holding the position of Vice President of Operations. I have been employed the Eagle Brass Company at all times relevant to this litigation.

Eagle Brass Company's primary SIC # is 7440020. Its primary NAICS # is 331421. In 2010 it employed forty-nine (49) people, in 2011 it employed forty-seven (47) people, and in 2012 it employed forty-seven (47) people.

On behalf of the Eagle Brass Company, I prepare and submit Forms R to the Environmental Protection Agency and I have done so since approximately 1997. I prepared the Forms R that are the subject of this litigation. The Forms R for the years 2011 and 2012 are attached to this Affidavit and are marked as Exhibits "1" and "2" respectively. At the time of preparation of this Affidavit, I did not have immediate access to the Form R for 2010.

The metals that are subject to the Forms R submittals are an alloy that is received by the Eagle Brass Company. The alloy at issue contains copper, nickel and iron. The Eagle Brass Company does not change or alter the chemical composition of the alloy in any way during the time period that the alloy is in its possession.

Sometime within approximately the last ten (10) years, an auditor for the Environmental Protection Agency came to the Eagle Brass Company plant. The auditor requested to view our Forms R. They were provided to the auditor without issue. The forms provided were prepared in the same manner as the ones at issue in this case.

In each year that I prepared the Forms R that was submitted to the Environmental Protection Agency, the information that is contained in the Forms R is a complete and accurate statement of the total amount of the alloy that was processed by the Eagle Brass Company.

When I prepared the Forms R, I designated the alloy, perhaps incorrectly, as nickel rather than the alloy.

At best, the Forms R is inaccurate, however, they were timely filed, timely reported and contains the accurate information.

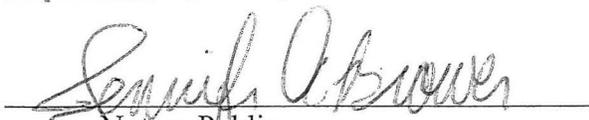
After filing of the Forms R, the Eagle Brass Company did not receive any notices of noncompliance from the Environmental Protection Agency. Had such notices been received, I am confident that they would have been reviewed and properly answered.

During the pendency of this matter, I have communicated with Abraham Reich of the EPA. He requested that Eagle Brass Company amend its Form R filings. On behalf of Eagle Brass Company, I filed the amended Forms R as requested.


Jonathon H. Anderton,
Eagle Brass Company

Sworn to and subscribed before me this

15th day of September, 2015.


Notary Public

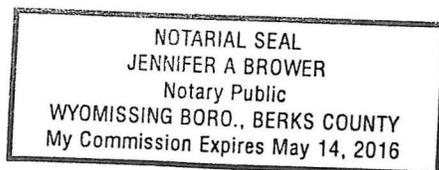


EXHIBIT “1”

***** File Copy Only: Do Not Submit Paper Form to EPA *****

Form Approved OMB Number: 2025-0009

(IMPORTANT: Read instructions before completing form; type or use fill-and-print form)

Approval Expires: 10/31/2014

Page 1 of 5

EPA United States Environmental Protection Agency	<h2 style="margin:0;">FORM R</h2> <p style="margin:0;">Section 313 of the Emergency Planning and Community Right-to-know Act of 1986, also known as Title III of the Superfund Amendments and Reauthorization Act.</p>	TRI Facility ID Number
		19533MTLSNOLDBE
		Toxic Chemical, Category, or Generic Name
		Nickel

WHERE TO SEND COMPLETED FORMS:	1. TRI Data Processing Center P.O. Box 10163 Fairfax, VA 22038 *** File Copy Only: Do Not Submit Paper Form to EPA ***	2. APPROPRIATE STATE OFFICE (See instructions in Appendix F)
--------------------------------	---	---

This section only applies if you are revising or withdrawing a previously submitted form, otherwise leave blank:	Revision (Enter up to two code(s)) [][]	Withdrawal (Enter up to two code(s)) [][]
--	--	--

Important: See Instructions to determine when "Not Applicable (NA)" boxes should be checked.

Part I. FACILITY IDENTIFICATION INFORMATION

SECTION 1. REPORTING YEAR : 2011

SECTION 2. TRADE SECRET INFORMATION

2.1 Are you claiming the toxic chemical identified on page 2 trade secret? <input type="checkbox"/> Yes (Answer question 2.2; attach substantiation forms) <input checked="" type="checkbox"/> NO (Do not answer 2.2; go to Section 3)	2.2 Is this copy <input type="checkbox"/> Sanitized <input type="checkbox"/> Unsanitized (Answer only if "Yes" in 2.1)
--	--

SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.)

I hereby certify that I have reviewed the attached documents and that, to the best of my knowledge and belief, the submitted information is true and complete and that the amounts and values in this report are accurate based on reasonable estimates using data available to the preparers of this report.

Name and official title of owner/operator or senior management official:	Signature:	Date Signed:
File Copy Only: Do Not Submit Paper Form to EPA	File Copy Only: Do Not Submit Paper Form to EPA	XX/XX/XXXX

SECTION 4. FACILITY IDENTIFICATION

4.1	TRI Facility ID Number	19533MTLSNOLDBE
Facility or Establishment Name EAGLE BRASS CO		
Street 1243 OLD BERNVILLE RD		Mailing Address (if different from physical street address)
City/County/State/ZIP Code LEESPORT / Berks / PA / 195339115		Country (Non-US) / /

4.2	This report contains information for : (Important: check a or b; check c or d if applicable)	a. <input checked="" type="checkbox"/> An Entire facility	b. <input type="checkbox"/> Part of a facility	c. <input type="checkbox"/> A Federal facility	d. <input type="checkbox"/> GOCO
-----	--	---	--	--	----------------------------------

4.3	Technical Contact name	Jonathon H. Anderton	Email Address production@eaglebrass.com	Telephone Number (include area code) 6109165203
-----	------------------------	-----------------------------	---	---

4.4	Public Contact name	Jonathon H. Anderton	Email Address production@eaglebrass.com	Telephone Number (include area code) 6109165203
-----	---------------------	-----------------------------	---	---

4.5	NAICS Code(s) (6 digits)	a. 331421 (Primary)	b.	c.	d.	e.	f.
-----	--------------------------	----------------------------	----	----	----	----	----

4.6	Dun and Bradstreet Number(s) (9 digits)
a. 002479277	
b.	

SECTION 5. PARENT COMPANY INFORMATION

5.1	Name of U.S. Parent Company (for TRI Reporting purposes)	No U.S. Parent Company (for TRI Reporting purposes) <input checked="" type="checkbox"/>
5.2	Parent Company's Dun & Bradstreet Number	NA <input checked="" type="checkbox"/>

EPA FORM R PART II. CHEMICAL - SPECIFIC INFORMATION	TRI Facility ID Number 19533MTLSNOLDBE Toxic Chemical, Category, or Generic Name Nickel
--	--

SECTION 1. TOXIC CHEMICAL IDENTITY (Important: DO NOT complete this section if you are reporting a mixture component in Section 2 below.)

1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.) 7440020
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.) Nickel
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "Yes". Generic Name must be structurally descriptive). NA

SECTION 2. MIXTURE COMPONENT IDENTITY (Important: DO NOT complete this section if you completed Section 1.)

2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, spaces, and punctuation.) NA
-----	--

SECTION 3. ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY
(Important: Check all that apply.)

3.1 Manufacture the toxic chemical: a. <input type="checkbox"/> Produce b. <input type="checkbox"/> Import If produce or import: c. <input type="checkbox"/> For on-site use/processing d. <input type="checkbox"/> For sale/distribution e. <input type="checkbox"/> As a byproduct f. <input type="checkbox"/> As an impurity	3.2 Process the toxic chemical: a. <input type="checkbox"/> As a reactant b. <input type="checkbox"/> As a formulation component c. <input type="checkbox"/> As an article component d. <input checked="" type="checkbox"/> Repackaging e. <input type="checkbox"/> As an impurity	3.3 Otherwise use the toxic chemical: a. <input type="checkbox"/> As a chemical processing aid b. <input type="checkbox"/> As a manufacturing aid c. <input type="checkbox"/> Ancillary or other use
---	---	---

SECTION 4. MAXIMUM AMOUNT OF THE TOXIC CHEMICAL ON-SITE AT ANY TIME DURING THE CALENDAR YEAR

4.1	[05] (Enter two-digit code from instruction package.)
-----	--

SECTION 5. QUANTITY OF THE TOXIC CHEMICAL ENTERING EACH ENVIRONMENTAL MEDIUM ON-SITE

		A. Total Release (pounds/year*) (Enter range code or estimate**)	B. Basis of Estimate (Enter code)	C. Percent from Stormwater
5.1	Fugitive or non-point air emissions	NA [X]		
5.2	Stack or point air emissions	NA [X]		
5.3	Discharges to receiving streams or water bodies (Enter one name per box)	NA [X]		
	Stream or Water Body Name			
5.3.1	NA			

*For Dioxin and Dioxin-like Compounds, report in grams/year
 **Range Codes: A=1-10 pounds; B=11-499 pounds; C=500-999 pounds.

EPA FORM R PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)	TRI Facility ID Number
	19533MTLSNOLDBE
	Toxic Chemical, Category, or Generic Name
	Nickel

SECTION 5. QUANTITY OF THE TOXIC CHEMICAL ENTERING EACH ENVIRONMENTAL MEDIUM ON-SITE (Continued)

		NA	A. Total Release (pounds/year*) (Enter range code** or estimate)	B. Basis of Estimate (Enter code)
5.4.1	Underground Injection on-site to Class I wells	[X]		
5.4.2	Underground Injection on-site to Class II-V wells	[X]		
5.5	Disposal to land on-site			
5.5.1.A	RCRA subtitle C landfills	[X]		
5.5.1.B	Other landfills	[X]		
5.5.2	Land treatment/application farming	[X]		
5.5.3A	RCRA Subtitle C surface impoundments	[X]		
5.5.3B	Other surface impoundments	[X]		
5.5.4	Other disposal	[X]		

SECTION 6. TRANSFER(S) OF THE TOXIC CHEMICAL IN WASTES TO OFF-SITE LOCATIONS

6.1 DISCHARGES TO PUBLICLY OWNED TREATMENT WORKS (POTWs)	NA [X]
--	----------

*For Dioxin and Dioxin-like Compounds, report in grams/year
 **Range Codes: A=1-10 pounds; B=11-499 pounds; C=500-999 pounds.

EPA FORM R PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)							TRI Facility ID Number		
							19533MTLSNOLDBE		
							Toxic Chemical, Category, or Generic Name		
							Nickel		
SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS							NA <input type="checkbox"/>		
6.2.1 Off-Site EPA Identification Number (RCRA ID No.)				ILD021514211					
Off-Site Location Name:				TOTAL METAL RECYCLING INC					
Off-Site Address:				2720 MISSOURI AVE					
City	GRANITE CITY	County	Madison	State	IL	ZIP	62040	Country (Non-US)	
Is location under control of reporting facility or parent company?							<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
A. Total Transfer (pounds/year*) (Enter range code** or estimate)			B. Basis of Estimate (Enter code)		C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (Enter code)				
1. 4391			1. O		1. M24				
6.2.2 Off-Site EPA Identification Number (RCRA ID No.)				CTD001147974					
Off-Site Location Name:				MILLER COMPANY, THE					
Off-Site Address:				99 CENTER ST.					
City	MERIDEN	County	New Haven	State	CT	ZIP	064504224	Country (Non-US)	
Is location under control of reporting facility or parent company?							<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
A. Total Transfer (pounds/year*) (Enter range code** or estimate)			B. Basis of Estimate (Enter code)		C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (Enter code)				
1. 101864			1. O		1. M24				
6.2.3 Off-Site EPA Identification Number (RCRA ID No.)				IAD984571802					
Off-Site Location Name:				PMX INDUSTRIES INC					
Off-Site Address:				5300 WILLOW CREEK DRIVE SOUTHWEST					
City	CEDAR RAPIDS	County	Linn	State	IA	ZIP	524044303	Country (Non-US)	
Is location under control of reporting facility or parent company?							<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
A. Total Transfer (pounds/year*) (Enter range code** or estimate)			B. Basis of Estimate (Enter code)		C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (Enter code)				
1. 22594			1. O		1. M24				
SECTION 7A. ON-SITE WASTE TREATMENT METHODS AND EFFICIENCY									
<input checked="" type="checkbox"/> NA - Check here if no on-site waste treatment is applied to any waste stream containing the toxic chemical or chemical category.									
a. General Waste Stream (Enter code)	b. Waste Treatment Method(s) Sequence (Enter 3-or 4-character code(s))				c. Waste Treatment Efficiency (Enter 2 character code)				

**EPA FORM R
PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)**

TRI Facility ID Number

19533MTLSNOLDBE

Toxic Chemical, Category, or Generic Name

Nickel

SECTION 7B. ON-SITE ENERGY RECOVERY PROCESSES

[X] NA - Check here if no on-site energy recovery is applied to any waste stream containing the toxic chemical or chemical category.

Energy Recovery Methods [Enter 3-character code(s)]

SECTION 7C. ON-SITE RECYCLING PROCESSES

[X] NA - Check here if no on-site recycling is applied to any waste stream containing the toxic chemical or chemical category.

Recycling Methods [Enter 3-character code(s)]

SECTION 8. DISPOSAL OR OTHER RELEASES, SOURCE REDUCTION, AND RECYCLING ACTIVITIES

		Column A Prior Year (pounds/year*)	Column B Current Reporting Year (pounds/year*)	Column C Following Year (pounds/year*)	Column D Second Following Year (pounds/year*)
8.1					
8.1a	Total on-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills	NA	NA	NA	NA
8.1b	Total other on-site disposal or other releases	NA	NA	NA	NA
8.1c	Total off-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills	NA	NA	NA	NA
8.1d	Total other off-site disposal or other releases	NA	NA	NA	NA
8.2	Quantity used for energy recovery on-site	NA	NA	NA	NA
8.3	Quantity used for energy recovery off-site	NA	NA	NA	NA
8.4	Quantity recycled on-site	NA	NA	NA	NA
8.5	Quantity recycled off-site	127756	128849	139848	160000
8.6	Quantity treated on-site	NA	NA	NA	NA
8.7	Quantity treated off-site	NA	NA	NA	NA
8.8	Quantity released to the environment as a result of remedial actions, catastrophic events, or one-time events not associated with production processes (pounds/year)	0			
8.9	Production ratio or activity index	NA			
8.10	Did your facility engage in any newly implemented source reduction activities for this chemical during the reporting year? If so, complete the following section; if not, check NA.	NA [X]			
	Source Reduction Activities (Enter code(s))	Methods to Identify Activity (Enter code(s))			
8.10.1	NA				

TRI Facility ID Number

19533MTLSNOLDBE

Toxic Chemical, Category, or Generic Name

Nickel

Additional optional information on source reduction, recycling, or pollution control activities.

Miscellaneous, additional, or optional information regarding the Form R submission

EXHIBIT “2”

Form Status: Pending Certification

Validation Status: Passed with Possible Errors

Form Approved OMB Number: 2025-0009

Approval Expires: 10/31/2014

Page 1 of 5

(IMPORTANT: Read instructions before completing form; type or use fill-and-print form)

EPA United States Environmental Protection Agency		FORM R		TRI Facility ID Number 19533MTLSNOLDBE			
Section 313 of the Emergency Planning and Community Right-to-know Act of 1986, also known as Title III of the Superfund Amendments and Reauthorization Act.				Toxic Chemical, Category, or Generic Name Nickel			
WHERE TO SEND COMPLETED FORMS:	1. TRI Data Processing Center P.O. Box 10163 Fairfax, VA 22038 *** Draft Form Only: Do Not Submit to EPA ***			2. APPROPRIATE STATE OFFICE (See instructions in Appendix F)			
This section only applies if you are revising or withdrawing a previously submitted form, otherwise leave blank:		Revision (Enter up to two code(s)) [][]		Withdrawal (Enter up to two code(s)) [][]			
Important: See Instructions to determine when "Not Applicable (NA)" boxes should be checked.							
Part I. FACILITY IDENTIFICATION INFORMATION							
SECTION 1. REPORTING YEAR : 2012							
SECTION 2. TRADE SECRET INFORMATION							
2.1 Are you claiming the toxic chemical identified on page 2 trade secret? [] Yes (Answer questions 2.2; attach substantiation forms) [X] NO (Do not answer 2.2; go to Section 3)		2.2 Is this copy [] Sanitized [] Unsanitized (Answer only if "Yes" in 2.1)					
SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.)							
I hereby certify that I have reviewed the attached documents and that, to the best of my knowledge and belief, the submitted information is true and complete and that the amounts and values in this report are accurate based on reasonable estimates using data available to the preparers of this report.							
Name and official title of owner/operator or senior management official: Draft Form Only: Do Not Submit to EPA			Signature: Draft Form Only: Do Not Submit to EPA		Date Signed: XX/XX/XXXX		
SECTION 4. FACILITY IDENTIFICATION							
4.1	TRI Facility ID Number		19533MTLSNOLDBE				
Facility or Establishment Name EAGLE BRASS CO							
Street 1243 OLD BERNVILLE RD			Mailing Address (if different from physical street address)				
City/County/Tribe/State/ZIP Code LEESPORT / Berks / BIA Code: / PA / 195339115			City/State/ZIP Code / /		Country (Non-US)		
4.2	This report contains information for : (Important: check a or b; check c or d if applicable)		a. [X] An Entire facility	b. [] Part of a facility	c. [] A Federal facility	d. [] GOCO	
4.3	Technical Contact name	JONATHON H. ANDERTON	Email Address PRODUCTION@EAGLEBRASS.COM	Telephone Number (include area code) 6109165203			
4.4	Public Contact name	JONATHON H. ANDERTON	Email Address PRODUCTION@EAGLEBRASS.COM	Telephone Number (include area code) 6109165203			
4.5	NAICS Code(s) (6 digits)	a. 331421 (Primary)	b.	c.	d.	e.	f.
4.6	Dun and Bradstreet Number(s) (9 digits) a. 002479277 b.*						
SECTION 5. PARENT COMPANY INFORMATION							
5.1	Name of U.S. Parent Company (for TRI Reporting purposes)			No U.S. Parent Company (for TRI Reporting purposes) [X]			
5.2	Parent Company's Dun & Bradstreet Number	NA [X]					

EPA FORM R PART II. CHEMICAL - SPECIFIC INFORMATION	TRI Facility ID Number
	19533MTLSNOLDBE
	Toxic Chemical, Category, or Generic Name
	Nickel

SECTION 1. TOXIC CHEMICAL IDENTITY (Important: DO NOT complete this section if you are reporting a mixture component in Section 2 below.)

1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)
	7440020
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
	Nickel
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "Yes". Generic Name must be structurally descriptive).
	NA

SECTION 2. MIXTURE COMPONENT IDENTITY (Important: DO NOT complete this section if you completed Section 1 above.)

2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, spaces, and punctuation.)
	NA

SECTION 3. ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY

(Important: Check all that apply.)

3.1	Manufacture the toxic chemical:	3.2	Process the toxic chemical:	3.3	Otherwise use the toxic chemical:
	a. <input type="checkbox"/> Produce b. <input type="checkbox"/> Import				
If produce or import:		a. <input type="checkbox"/> As a reactant b. <input type="checkbox"/> As a formulation component c. <input type="checkbox"/> As an article component d. <input checked="" type="checkbox"/> Repackaging e. <input type="checkbox"/> As an impurity		a. <input type="checkbox"/> As a chemical processing aid b. <input type="checkbox"/> As a manufacturing aid c. <input type="checkbox"/> Ancillary or other use	
c. <input type="checkbox"/> For on-site use/processing d. <input type="checkbox"/> For sale/distribution e. <input type="checkbox"/> As a byproduct f. <input type="checkbox"/> As an impurity					

SECTION 4. MAXIMUM AMOUNT OF THE TOXIC CHEMICAL ON-SITE AT ANY TIME DURING THE CALENDAR YEAR

4.1	[05] (Enter two-digit code from instruction package.)
-----	---

SECTION 5. QUANTITY OF THE TOXIC CHEMICAL ENTERING EACH ENVIRONMENTAL MEDIUM ON-SITE

		A. Total Release (pounds/year*) (Enter range code or estimate**)	B. Basis of Estimate (Enter code)	C. Percent from Stormwater
5.1	Fugitive or non-point air emissions	NA [X]		
5.2	Stack or point air emissions	NA [X]		
5.3	Discharges to receiving streams or water bodies (Enter one name per box)	NA [X]		
Stream or Water Body Name				
5.3.1	NA			

EPA Form 9350-1 (Rev. 10/2012) - Previous editions are obsolete.

*For Dioxin and Dioxin-like Compounds, report in grams/year
**Range Codes: A=1-10 pounds; B=11-499 pounds; C=500-999 pounds.

EPA FORM R PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)	TRI Facility ID Number
	19533MTLSNOLDBE
	Toxic Chemical, Category, or Generic Name
	Nickel

SECTION 5. QUANTITY OF THE TOXIC CHEMICAL ENTERING EACH ENVIRONMENTAL MEDIUM ON-SITE (Continued)

		NA	A. Total Release (pounds/year*) (Enter range code** or estimate)	B. Basis of Estimate (Enter code)
5.4.1	Underground Injection on-site to Class I wells	[X]		
5.4.2	Underground Injection on-site to Class II-V wells	[X]		
5.5	Disposal to land on-site			
5.5.1.A	RCRA subtitle C landfills	[X]		
5.5.1.B	Other landfills	[X]		
5.5.2	Land treatment/application farming	[X]		
5.5.3A	RCRA Subtitle C surface impoundments	[X]		
5.5.3B	Other surface impoundments	[X]		
5.5.4	Other disposal	[X]		

SECTION 6. TRANSFER(S) OF THE TOXIC CHEMICAL IN WASTES TO OFF-SITE LOCATIONS

6.1 DISCHARGES TO PUBLICLY OWNED TREATMENT WORKS (POTWs)	NA [X]
--	--------

EPA Form 9350-1 (Rev. 10/2012) - Previous editions are obsolete.

*For Dioxin and Dioxin-like Compounds, report in grams/year
**Range Codes: A=1-10 pounds; B=11-499 pounds; C=500-999 pounds.

EPA FORM R PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)						TRI Facility ID Number		19533MTLSNOLDBE		Toxic Chemical, Category, or Generic Name		Nickel	
6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS						NA []							
6.2.1 Off-Site EPA Identification Number (RCRA ID No.)						IAD984571802							
Off-Site Location Name:						PMX INDUSTRIES INC							
Off-Site Address:						5300 WILLOW CREEK DRIVE SOUTHWEST							
City	CEDAR RAPIDS	County	Linn	State	IA	Zip	524044303	Country (Non-US)					
Is location under control of reporting facility or parent company?						[] Yes [X] No							
A. Total Transfer (pounds/year*) (Enter range code** or estimate)			B. Basis of Estimate (Enter code)		C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (Enter code)								
1 . 28306			1 . C		1 . M24								
6.2.2 Off-Site EPA Identification Number (RCRA ID No.)						CTD001147974							
Off-Site Location Name:						MILLER COMPANY, THE							
Off-Site Address:						99 CENTER ST.							
City	MERIDEN	County	New Haven	State	CT	Zip	064504224	Country (Non-US)					
Is location under control of reporting facility or parent company?						[] Yes [X] No							
A. Total Transfer (pounds/year*) (Enter range code** or estimate)			B. Basis of Estimate (Enter code)		C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (Enter code)								
1 . 95153			1 . C		1 . M24								
SECTION 7A. ON-SITE WASTE TREATMENT METHODS AND EFFICIENCY													
[X] Not Applicable (NA) - Check here if no on-site waste treatment is applied to any waste stream containing the toxic chemical or chemical category.													
a. General Waste Stream (Enter code)		b. Waste Treatment Method(s) Sequence (Enter 3- or 4-character code(s))				c. Waste Treatment Efficiency (Enter 2 character code)							

EPA Form 9350-1 (Rev. 10/2012) - Previous editions are obsolete.

*For Dioxin and Dioxin-like Compounds, report in grams/year
 **Range Codes: A=1-10 pounds; B=11-499 pounds; C=500-999 pounds.

EPA FORM R
PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)

TRI Facility ID Number

19533MTLSNOLDBE

Toxic Chemical, Category, or Generic Name

Nickel

SECTION 7B. ON-SITE ENERGY RECOVERY PROCESSES

NA - Check here if no on-site energy recovery is applied to any waste stream containing the toxic chemical or chemical category.

Energy Recovery Methods [Enter 3-character code(s)]

SECTION 7C. ON-SITE RECYCLING PROCESSES

NA - Check here if no on-site recycling is applied to any waste stream containing the toxic chemical or chemical category.

Recycling Methods [Enter 3-character code(s)]

SECTION 8. DISPOSAL OR OTHER RELEASES, SOURCE REDUCTION, AND RECYCLING ACTIVITIES

		Column A Prior Year (pounds/year*)	Column B Current Reporting Year (pounds/year*)	Column C Following Year (pounds/year*)	Column D Second Following Year (pounds/year*)
8.1					
8.1a	Total on-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills	NA	NA	NA	NA
8.1b	Total other on-site disposal or other releases	NA	NA	NA	NA
8.1c	Total off-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills	NA	NA	NA	NA
8.1d	Total other off-site disposal or other releases	NA	NA	NA	NA
8.2	Quantity used for energy recovery on-site	NA	NA	NA	NA
8.3	Quantity used for energy recovery off-site	NA	NA	NA	NA
8.4	Quantity recycled on-site	NA	NA	NA	NA
8.5	Quantity recycled off-site	149832	123459	130000	135000
8.6	Quantity treated on-site	NA	NA	NA	NA
8.7	Quantity treated off-site	NA	NA	NA	NA
8.8	Quantity released to the environment as a result of remedial actions, catastrophic events, or one-time events not associated with production processes (pounds/year)		NA		
8.9	Production ratio or activity index		NA		
8.10	Did your facility engage in any newly implemented source reduction activities for this chemical during the reporting year? If so, complete the following section; if not, check NA.		NA <input checked="" type="checkbox"/>		
	Source Reduction Activities (Enter code(s))	Methods to Identify Activity (Enter code(s))			
8.10.1	NA				

EPA Form 9350-1 (Rev. 10/2012) - Previous editions are obsolete.

*For Dioxin and Dioxin-like Compounds, report in grams/year

TRI Facility ID Number
19533MTLSNOLDBE
Toxic Chemical, Category, or Generic Name
Nickel

Additional optional information on source reduction, recycling, or pollution control activities.

Miscellaneous, additional, or optional information regarding the Form R submission

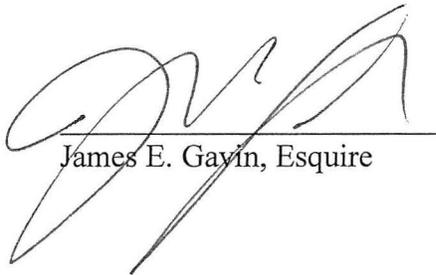
CERTIFICATE OF SERVICE

I, James E. Gavin, Esquire, hereby certify that I have this 15th day of September 2015, served a true and correct copy of Respondent's Record for Submission in Response to Motion for Accelerated Decision upon the party listed below, via first-class mail, postage prepaid:

Attorney for Complainant:

Joyce A. Howell (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103

MASANO ♦ BRADLEY



James E. Gavin, Esquire