



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
Eagle Brass Company,) **Docket No. EPCRA-03-2015-0127**
)
Respondent.)

ORDER ON COMPLAINANT’S MOTION FOR DISCOVERY

On August 27, 2015, I issued a Prehearing Order directing the parties to file and serve prehearing exchanges. Consistent therewith, Complainant submitted an Initial Prehearing Exchange on October 6, 2015, and a Rebuttal Prehearing Exchange on November 5, 2015. Likewise, Respondent submitted its Prehearing Exchange on October 30, 2015. A hearing in this matter has been scheduled to begin on March 7, 2017, and continue as necessary through March 10, 2017, in Philadelphia, Pennsylvania.

On December 22, 2016, Complainant filed a Motion for Discovery (“Motion”) with an accompanying Memorandum of Law in Support of its Motion for Discovery (“Memorandum”), as well as Requests for Admission and Interrogatories.¹ In its Motion and Memorandum, Complainant requests that I order Respondent to respond to the submitted Requests for Admission and Interrogatories. In furtherance of this request, Complainant asserts that the additional discovery it seeks will not unreasonably delay the proceedings or unduly burden Respondent. Additionally, Complainant asserts that the information it seeks through its Requests for Admission and Interrogatories is most reasonably obtained from Respondent, has not been provided voluntarily, and has significant probative value on a disputed issue of material fact relevant to liability or the relief sought in this matter. Although Complainant indicates that it informed Respondent of its Motion prior to filing, Respondent did not file a response to the Motion.²

The rules that govern this proceeding, 40 C.F.R. Part 22 (“Rules of Practice”), set forth the conditions necessary for a Presiding Officer to grant motions for additional discovery following a prehearing exchange. *See* 40 C.F.R. § 22.19(e). Pursuant to the Rules of Practice, the Presiding Officer may order additional discovery only if it:

¹ Complainant’s Requests for Admission and Interrogatories are contained within one document reflecting both discovery instruments, which has been attached to Complainant’s Motion as Attachment A.

² Pursuant to 40 C.F.R. § 22.16(b), a party’s response to a motion must be filed within 15 days after service of such motion. Respondent did not file a response to Complainant’s Motion within this period.

- (i) Will neither unreasonably delay the proceeding nor unreasonably burden the non-moving party;
- (ii) Seeks information that is most reasonably obtained from the non-moving party, and which the non-moving party has refused to provide voluntarily; and
- (iii) Seeks information that has significant probative value on a disputed issue of material fact relevant to liability or the relief sought.

40 C.F.R. § 22.19(e)(1).³

Complainant's request for additional discovery in its Motion satisfies the aforementioned criteria set forth in the Rules of Practice. The Requests for Admission and Interrogatories, appropriately provided along with Complainant's Motion, are unlikely to delay this proceeding or unreasonably burden Respondent, the non-moving party, as the information sought by these instruments is appropriately limited in scope and within the control of Respondent. Likewise, the information sought by Complainant through its Requests for Admission and Interrogatories is most reasonably obtained from Respondent, and the record reflects that Respondent has not provided such information voluntarily. Finally, the information sought by Complainant through its Requests for Admission and Interrogatories, regarding Respondent's sales and chemical processing activities during the period at issue in this proceeding, has significant probative value on disputed issues of material fact relevant to liability and the penalty sought by Complainant. Accordingly, as Complainant's request for additional discovery within its Motion satisfies the criteria for additional discovery established in the Rules of Practice, Complainant's Motion is hereby **GRANTED**. **On or before January 26, 2017**, Respondent shall provide Complainant with complete responses to the Requests for Admission and Interrogatories attached to the Motion.

SO ORDERED.

Christine Donelian Coughlin
Administrative Law Judge

Date: January 12, 2017
Washington, D.C.

³ Notably, a party's right to request admissions is not limited by 40 C.F.R. § 22.19(e). 40 C.F.R. § 22.19(e)(5). However, Complainant's Requests for Admission and Interrogatories are contained within one document reflecting both discovery instruments. As a result, Complainant's request for discovery in its Motion must satisfy the criteria for additional discovery set forth in 40 C.F.R. § 22.19(e).

In the Matter of *Eagle Brass Company*, Respondent.
Docket No. EPCRA-03-2015-0127

Certificate of Service

I hereby certify that the forgoing Order on Complainant's Motion for Discovery, dated January 12, 2017, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.



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Dated: January 12, 2017
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