

training in accordance with RCRA and its implementing regulations, specifically, 40 CFR part 265, and to characterize hazardous waste, specifically 40 CFR part 262, at its Sayreville, New Jersey facility.

**DATES:** Comments are due on or before June 2, 2003.

**ADDRESSES:** Send written comments to the Docket Office, Enforcement and Compliance Docket and Information Center (2201T), Docket Number EC-2002-020, U.S. Environmental Protection Agency, EPA West, 1200 Pennsylvania Avenue NW., Room B133, Washington, DC 20460 (in triplicate if possible.)

Please use a font size no smaller than 12. Comments may also be sent electronically to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov) or faxed to (202) 566-1511. Attach electronic comments as a text file and try to avoid the use of special characters and any forms of encryption. Please be sure to include the Docket Number EC-2002-020 on your document.

In person, deliver comments to U.S. Environmental Protection Agency, EPA West, 1301 Constitution Avenue, NW., Room B133, Washington, DC 20460. Parties interested in reviewing docket information may do so by calling (202) 566-1512 or (202) 566-1513. A reasonable fee may be charged by EPA for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:**

Sanda Howland, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564-5022; fax: (202) 564-0010; e-mail: [howland.sanda@epa.gov](mailto:howland.sanda@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the Federal Register—Environmental Documents entry (<http://www.epa.gov/fedrgstr>).

**I. Background**

Gerdau is a steel minimill, incorporated in the State of Florida, with its headquarters office located at 5100 West Lemon Street, Suite 312, Tampa, Florida. Gerdau has facilities located at 225 Elm Street, P.O. Box 309, Perth Amboy, New Jersey 08862, and North Crossman Road, Sayreville, New Jersey 08871. Gerdau disclosed, pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations" ("Audit Policy"), 65 FR 19618 (April 11, 2000), that it failed to have all of the necessary elements of an SPCC plan for the Perth Amboy, New Jersey facility, in

violation of the CWA section 311(b)(3) and 40 CFR part 112. Gerdau disclosed that for its Perth Amboy, New Jersey facility, that it also had failed to perform monitoring and maintain records in accordance with CAA section 111 and 40 CFR part 60. Gerdau disclosed that its Perth Amboy, New Jersey facility also failed to properly manage and manifest certain hazardous waste in violation of RCRA section 3004 and 3005 and 40 CFR parts 265 and 268. Also, it failed to properly characterize certain solid wastes in accordance with RCRA section 3002 and 40 CFR part 262.

Gerdau also disclosed that at its Sayreville, New Jersey facility it discharged contact water without a permit in accordance CWA parts 301 and 402 and 40 CFR parts 420 and 433, and failed to have documentation of training in its SPCC plan as required by CWA section 311 and 40 CFR part 112, and in its SWPPP, as required by CWA sections 301 and 402. In addition, Gerdau failed to properly characterize solid waste, in accordance with RCRA section 3002 and 40 CFR part 262, and had deficiencies in the facility's contingency plan in violation of RCRA section 3005 and 40 CFR part 265. Finally, Gerdau's Sayreville, New Jersey failed to identify all chemicals at the facility that exceeded threshold levels for reporting on the facility's Tier II reports. Those chemicals not identified include calcium carbide, calcium silicon, calcium hydroxide (lime), carbon, chromium compounds, diethylene glycol, dolime, dolomite, ethylene glycol, epoxy powder, ferroboration, ferrosilicon, ferrovanadium, graphite, O2 cryogenic liquid, silicon manganese, synthetic lubricating fluid, biocides in violation of EPCRA section 312, 42 U.S.C. 11022, and 40 CFR part 370.

Pursuant to 40 CFR 22.45(b)(2)(iii), the following is a list of facilities at which Gerdau self-disclosed violations of CWA section 311: 225 Elm Street, P.O. Box 309, Perth Amboy, New Jersey 08862 and North Crossman Road, Sayreville, New Jersey 08871. Gerdau also disclosed a violation of CWA sections 301 and 402 at the Sayreville, New Jersey.

In addition, Gerdau self-disclosed violations of EPCRA section 312 at its facility located in the state of New Jersey.

EPA determined that Gerdau met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA proposes to waive the gravity based penalty (\$439,622) and proposes a settlement penalty amount of forty-three

thousand, five hundred and sixty-five dollars (\$43,565). This is the amount of the economic benefit gained by Gerdau, attributable to their delayed compliance with the CWA, RCRA, CAA and EPCRA regulations. Gerdau has agreed to pay this amount. EPA and Gerdau negotiated and signed an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on March 11, 2003 (*In Re: Gerdau Ameristeel, Inc., d/b/a Gerdau Ameristeel, Perth Amboy and Gerdau Ameristeel, Sayreville*, Docket Nos. RCRA-HQ-2001-6009, CWA-HQ-2001-6009, CAA-HQ-2001-6009, EPCRA-HQ-2001-6009). This consent agreement is subject to public notice and comment under CWA sections 309, 33 U.S.C. 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311(b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

Under CWA sections 301 and 402, persons are not allowed to discharge pollutants to waters of the United States without first obtaining a permit. Any person who fails to comply with sections 301 and 402, or who fails or refuses to comply with any regulations or permits that have been issued under CWA sections 301 and 402, may be assessed an administrative civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 301 and 402 are conducted in accordance with 40 CFR part 22.

Under CAA section 113(d), the Administrator may issue an administrative order assessing a civil penalty against any person who has violated an applicable requirement of the CAA, including any rule, order, waiver, permit or plan. Proceedings under CAA section 113(d) are conducted in accordance with 40 CFR part 22.

Under EPCRA section 325, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right to know requirements, or any other requirement of EPCRA. Proceedings under EPCRA section 325