

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	:	
	:	
<b>High Steel Structures Inc.</b>	:	<b>Docket No. EPCRA-03-2010-0306</b>
<b>1853 William Penn Way</b>	:	
<b>Lancaster, Pennsylvania 17605</b>	:	
	:	<b>CONSENT AGREEMENT</b>
<b>Respondent</b>	:	
	:	
	:	
<b>High Steel Structures Inc.</b>	:	<b>Proceeding under</b>
<b>Greenfield Road &amp; Route 340</b>	:	<b>Section 325(c) of EPCRA</b>
<b>Lancaster, PA 17605</b>	:	<b>42 U.S.C. § 11045(c)</b>
	:	
<b>Facility</b>	:	

**CONSENT AGREEMENT**

**Preliminary Statement**

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant") and High Steel Structures Inc. ("Respondent") pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA Section 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, as alleged herein, by Respondent at its facility located at Greenfield Road & Route 340 in Lancaster, Pennsylvania.

**General Provisions**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.

4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.

#### **Findings of Fact and Conclusions of Law**

7. Complainant has determined that Respondent has violated EPCRA Section 313, and adopts the following findings of fact and conclusions of law in accordance with Sections 22.18(b)(2) and .14(a)(2) and (3) of the Consolidated Rules of Practice.
8. Respondent does business in Pennsylvania and is a corporation organized under the laws of the State of Pennsylvania.
9. As a Pennsylvania corporation, Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
10. 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.
11. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a steel beam manufacturing plant located at Greenfield Road & Route 340, Lancaster, Pennsylvania (the "Facility").
12. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA and 40 C.F.R. § 372.3.
13. Section 313 of EPCRA and 40 C.F.R. § 372.22 require, *inter alia*, that the owner or operator of a facility that:
  - 1) has 10 or more employees;
  - 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on January 1, 1987), or, has an SIC code in one or more of the following categories:
    - i. between 1000 and 1099, except 1011, 1081, and 1094;
    - ii. between 1200 and 1299, except 1241;
    - iii. 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce);
    - iv. 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. §§ 6921-6939e);
    - v. 5169 or 5171;

vi. 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and

- 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required,

must submit a completed toxic chemical release reporting form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.

14. At the time of the violations alleged herein, Respondent employed 10 or more full-time employees at the Facility.
15. At the time of the violations alleged herein, the Facility had a primary Standard Industrial Code of 3441 (fabricated structural metal), Major Group 34. This SIC code falls between the primary SIC codes of 20 (2000) and 39 (3900) (as in effect on July 1, 1985).
16. For each toxic chemical listed in 40 C.F.R. § 372.65 manufactured, processed, or otherwise used by Respondent at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, Respondent has been required by EPCRA § 313, at all times relevant to this Consent Agreement, to complete and submit to EPA and the State of Pennsylvania, by July 1, of the following calendar year, a Form R pursuant to 40 C.F.R. §§ 372.30.
17. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313 shall be liable to the United States for a civil penalty.

#### COUNTS I - III

18. The chemical substance "lead" is a "toxic chemical" as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
19. During calendar years 2005, 2006 and 2007, Respondent "processed" more than 100 pounds of lead, as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amounts exceeded the threshold quantity for reporting for lead set forth in 40 C.F.R. § 372.28(a)(1), which, pursuant to EPCRA § 313(f)(2), 42 U.S.C. § 11023(f)(2), revised the threshold quantity for the processing of lead set forth in EPCRA § 313(f)(1)(B) to 100 pounds.
20. In reporting its releases of lead at the Facility during the years 2005, 2006 and 2007, Respondent was required to submit to EPA and the State of Pennsylvania a completed Form R or Form A, by the respective deadlines of July 1, 2006, 2007 and 2008, pursuant to Section 313 of EPCRA.

21. In April 2009, Respondent submitted to EPA completed Form Rs to report its releases of lead at the Facility during 2005, 2006 and 2007. Thus, Respondent submitted these forms well after the applicable deadlines.
22. Respondent's failure to submit to EPA, by July 1 of 2006, 2007 and 2008, a completed Form R or Form A to report its releases of lead at the Facility during the years 2005, 2006 and 2007, respectively, constitutes three separate violations of Section 313 of EPCRA, for which Respondent is liable for civil penalties pursuant to Section 325(c) of EPCRA.

#### COUNTS IV - VI

23. The chemical substance "chromium" is a "toxic chemical" as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
24. During calendar years 2005, 2006 and 2007, Respondent "processed" more than 25,000 pounds of chromium, as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amounts exceeded the threshold quantity for reporting for chromium set forth in EPCRA § 313(f)(1)(B).
25. In reporting its releases of chromium at the Facility during the years 2005, 2006 and 2007, Respondent was required to submit to EPA and the State of Pennsylvania a completed Form R or Form A, by the respective deadlines of July 1, 2006, 2007 and 2008, pursuant to Section 313 of EPCRA.
26. In April 2009, Respondent submitted to EPA completed Form Rs to report its releases of chromium at the Facility during 2005, 2006 and 2007. Thus, Respondent submitted these forms well after the applicable deadlines.
27. Respondent's failure to submit to EPA, by July 1 of 2006, 2007 and 2008, a completed Form R or Form A to report its releases of chromium at the Facility during the years 2005, 2006 and 2007, respectively, constitutes three separate violations of Section 313 of EPCRA, for which Respondent is liable for civil penalties pursuant to Section 325(c) of EPCRA.

#### COUNTS VII - IX

28. The chemical substance "zinc (dust)" is a "toxic chemical" as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
29. During calendar years 2005, 2006 and 2007, Respondent "processed" more than 25,000 pounds of zinc (dust), as that term is defined in EPCRA § 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amounts exceeded the threshold quantity for reporting for zinc (dust) set forth in EPCRA § 313(f)(1)(B).
30. In reporting its releases of zinc (dust) at the Facility during the years 2005, 2006 and 2007, Respondent was required to submit to EPA and the State of Pennsylvania a

completed Form R or Form A, by the respective deadlines of July 1, 2006, 2007 and 2008, pursuant to Section 313 of EPCRA.

31. In April 2009, Respondent submitted to EPA completed Form Rs to report its releases of zinc (dust) at the Facility during 2005, 2006 and 2007. Thus, Respondent submitted these forms well after the applicable deadlines.
32. Respondent's failure to submit to EPA, by July 1 of 2006, 2007 and 2008, a completed Form R or Form A to report its releases of zinc (dust) at the Facility during the years 2005, 2006 and 2007, respectively, constitutes three separate violations of Section 313 of EPCRA, for which Respondent is liable for civil penalties pursuant to Section 325(c) of EPCRA.

### Civil Penalty

33. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **One Hundred Sixty-Five Thousand Dollars (\$165,000.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
34. The aforesaid settlement amount is based upon Complainant's consideration of the facts and circumstances of this case and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992). Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19. The settlement in this proceeding is consistent with the provisions and objectives of EPCRA § 313 and 40 C.F.R. Part 372.
35. Payment of the civil penalty amount assessed in paragraph 33, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
  - A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.* EPCRA-03-2010-0306.;
  - B. All checks shall be made payable to "United States Treasury";
  - C. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties

Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Contact: Eric Volck 513-487-2105

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

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

Contact: 314-418-1028

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

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

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

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

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

Physical location of U.S. Treasury facility:

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

G. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

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

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

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

and

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

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
37. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
38. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for

administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

39. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
40. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

#### **Certifications**

41. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313.

#### **Other Applicable Laws**

42. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

#### **Reservation of Rights**

43. This Consent Agreement and the accompanying Final Order resolve only EPA's civil claims for the specific violation of EPCRA § 313 alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

#### **Scope of Settlement**

44. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violation alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.



**Parties Bound**

45. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

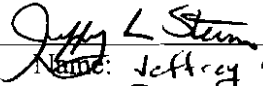
46. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA - Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

47. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violation alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**For Respondent:**

Date: June 11, 2010

By:   
Name: Jeffrey L. Sterner  
Title: President  
High Steel Structures Inc.

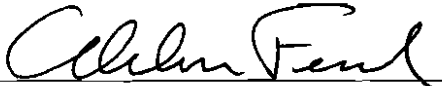
**For Complainant:**

Date: 6/22/10

By:   
Natalie L. Katz  
Senior Assistant Regional Counsel

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

Date: 6/22/10

By:   
Abraham Ferdas, Director  
Land and Chemicals Division

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

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: :  
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Lancaster, PA 17605 : Section 325(c) of EPCRA  
: 42 U.S.C. § 11045(c)  
Facility :

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, High Steel Structures Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the civil penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992) and the provisions and objectives of EPCRA. **NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **One Hundred Sixty-Five Thousand Dollars (\$165,000.00)**, and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 6/23/10



Renée Sarajian  
Regional Judicial Officer  
U.S. EPA, Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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<b>Lancaster, Pennsylvania 17605</b>	:	
	:	
<b>Respondent</b>	:	
	:	
	:	
<b>High Steel Structures Inc.</b>	:	
<b>Greenfield Road &amp; Route 340</b>	:	<b>Proceeding under</b>
<b>Lancaster, PA 17605</b>	:	<b>Section 325(c) of EPCRA</b>
	:	<b>42 U.S.C. § 11045(c)</b>
<b>Facility</b>	:	

**CERTIFICATE OF SERVICE**

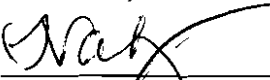
I hereby certify that on this date I filed and served copies of the attached Consent Agreement and Final Order, as follows:

Original and One Copy . Lydia Guy (3RC00)  
filed: (via hand delivery) Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103

Copy to: Michael Davis  
(via Certified Mail, Barley Snyder LLC  
Return Receipt Requested) 126 East King Street  
Lancaster, PA 17602

Terry Warco  
General Counsel & Treasurer  
1853 William Penn Way  
Lancaster, PA 17605

Date: June 23, 2010

  
\_\_\_\_\_  
Natalie L. Katz  
Senior Assistant Regional Counsel