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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of:

Santa Rosa Lead Products, Inc.

Respondent.

Docket No. EPCRA-09-2008- 00 06

CONSENT AGREEMENT  
AND FINAL ORDER  
pursuant to 40 C.F.R. §§ 22.13(b),  
22.18(b)(2), and 22.18(b)(3)

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX ("EPA"), and Santa Rosa Lead Products, Inc. (the "Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO").

A. AUTHORITY AND PARTIES

1. This is a civil administrative action brought under Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for assessment of a civil administrative penalty against Respondent for its failure to submit timely, complete and correct Toxic Chemical Release Inventory Forms for calendar years 2003, 2004, 2005, and 2006 in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing regulations set forth at 40 C.F.R. Part 372.

2. Complainant is the Director of the Communities and Ecosystems Division in EPA, Region IX (the "Complainant"). Pursuant to EPA Delegation Order Number 22-3-A, dated May 11, 1994, the Administrator of EPA has delegated the authority to file this action under EPCRA

1 to the Regional Administrator of EPA, Region IX, and pursuant to EPA Regional Order Number  
2 R1260.14B, dated May 19, 2005, the Regional Administrator re-delegated that authority to  
3 Complainant.

4 B. STATUTORY AND REGULATORY BASIS

5 3. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA  
6 promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for  
7 the submission of information relating to the release of toxic chemicals under EPCRA Section  
8 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.

9 4. Sections 313(a) and (b) of EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R.  
10 §§ 372.22 and 372.30, provide that the owner or operator of a facility must submit to EPA and  
11 the State in which the facility is located a chemical release form published under Section 313(g)  
12 of EPCRA for each toxic chemical listed under Section 313(c) of EPCRA and 40 C.F.R.  
13 § 372.65 that it manufactured, processed or otherwise used if: (i) the facility has ten or more full-  
14 time employees; (ii) the facility is in North American Industry Classification System Code  
15 332322; and (iii) the facility manufactured, processed or otherwise used during the calendar year  
16 the listed toxic chemical in excess of the threshold quantity established under Section 313(f) of  
17 EPCRA and 40 C.F.R. § 372.25.

18 5. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a  
19 uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a "Form R") for  
20 facilities that are subject to the reporting requirements of Section 313. Sections 313(a) and (b) of  
21 EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that each Form R for  
22 activities involving a toxic chemical that occurred during a calendar year must be submitted on or  
23 before July 1 of the next year.

24 C. ALLEGED VIOLATIONS

25 6. Respondent is a corporation and therefore fits within the definition of a "person," as  
26 provided in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

27 7. At all times relevant to this matter, Respondent owned and operated a facility (the  
28 "Facility") in the business of lead fabricating, located at 33 South University Street in



1 Healdsburg, California, that fits within the definition of a "facility," as provided in Section  
2 329(4) of EPCRA, 42 U.S.C. § 11049(4).

3 8. At all times relevant to this matter, the Facility had 10 or more "full-time employees,"  
4 as that term is defined at 40 C.F.R. § 372.3.

5 9. At all times relevant to this matter, the Facility was in North American Industry  
6 Classification System Code 332322.

7 10. During the calendar year 2003, Respondent "processed," as that term is defined in 40  
8 C.F.R. § 372.3, approximately 3,082,439 pounds of lead, a toxic chemical listed under 40 C.F.R.  
9 § 372.65. This quantity exceeded the 100 pound threshold for reporting "processing" of that  
10 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.  
11 § 372.28.

12 11. During the calendar year 2004, Respondent "processed," as that term is defined in 40  
13 C.F.R. § 372.3, approximately 3,144,974 pounds of lead, a toxic chemical listed under 40 C.F.R.  
14 § 372.65. This quantity exceeded the 100 pound threshold for reporting "processing" of that  
15 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.  
16 § 372.28.

17 12. During the calendar year 2005, Respondent "processed," as that term is defined in 40  
18 C.F.R. § 372.3, approximately 2,836,412 pounds of lead, a toxic chemical listed under 40 C.F.R.  
19 § 372.65. This quantity exceeded the 100 pound threshold for reporting "processing" of that  
20 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.  
21 § 372.28.

22 13. During the calendar year 2006, Respondent "processed," as that term is defined in 40  
23 C.F.R. § 372.3, approximately 2,482,471 pounds of lead, a toxic chemical listed under 40 C.F.R.  
24 § 372.65. This quantity exceeded the 100 pound threshold for reporting "processing" of that  
25 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.  
26 § 372.28.

27 14. Respondent was required to submit a Form R for lead to EPA and the State of  
28 California for calendar year 2003 on or before July 1, 2004.

1 15. Respondent was required to submit a Form R for lead to EPA and the State of  
2 California for calendar year 2004 on or before July 1, 2005.

3 16. Respondent was required to submit a Form R for lead to EPA and the State of  
4 California for calendar year 2005 on or before July 1, 2006.

5 17. Respondent was required to submit a Form R for lead to EPA and the State of  
6 California for calendar year 2006 on or before July 1, 2007.

7 18. Respondent failed to timely submit the Form Rs required of it to EPA and the State  
8 of California for calendar years 2003 through 2006, and thus violated Section 313 of EPCRA, 42  
9 U.S.C. § 11023, and 40 C.F.R. Part 372.

10 19. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Civil Monetary Penalty  
11 Inflation Adjustment Rule, 40 C.F.R. Part 19, provide that any person who violates any  
12 requirement of Section 313 shall be liable to the United States for a civil penalty in an amount  
13 not to exceed \$27,500 for each such violation that occurred before March 15, 2004, and \$32,500  
14 for each such violation that occurred on or after March 15, 2004. Under the Enforcement  
15 Response Policy for Section 313 of EPCRA, dated August 10, 1992, and the Civil Monetary  
16 Penalty Inflation Adjustment Rule, the violations cited above would merit a total gravity-based  
17 civil penalty of SEVENTY-FIVE THOUSAND AND SEVEN HUNDRED DOLLARS  
18 (\$75,700), given the nature, circumstances, and extent of the violations alleged.

19 D. RESPONDENT'S ADMISSIONS

20 20. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
21 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over  
22 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section  
23 I.C of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the  
24 assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any  
25 right to contest the allegations contained in this CAFO; and (v) waives the right to appeal the  
26 proposed Final Order contained in this CAFO.



1                                    E. CIVIL ADMINISTRATIVE PENALTY

2            21. In settlement of the violations specifically alleged in Section I.C of this CAFO,  
3 Respondent shall pay a civil administrative penalty of FIFTY-TWO THOUSAND, NINE  
4 HUNDRED, AND NINETY DOLLARS (\$52,990). Respondent shall pay this civil penalty  
5 within thirty (30) days of the effective date of this CAFO, shall make this payment by cashier's  
6 or certified check payable to the "Treasurer, United States of America," and shall send the check  
7 to the following address:

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

12 Respondent shall accompany its payment with a transmittal letter identifying the case name, the  
13 case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty,  
14 Respondent shall send a copy of the check and transmittal letter to the following addresses:

15                                   Regional Hearing Clerk  
16                                   Office of Regional Counsel (ORC-1)  
17                                   U.S. Environmental Protection Agency, Region IX  
                                 75 Hawthorne Street  
                                 San Francisco, CA 94105

18                                   Mariela Lopez  
19                                   Communities and Ecosystems Division (CED-4)  
20                                   U.S. Environmental Protection Agency, Region IX  
                                 75 Hawthorne Street  
                                 San Francisco, CA 94105

21                                   Edgar Coral  
22                                   Office of Regional Counsel (ORC-2)  
23                                   U.S. Environmental Protection Agency, Region IX  
                                 75 Hawthorne Street  
                                 San Francisco, CA 94105

24            22. Respondent shall not use payment of any penalty under this CAFO as a tax deduction  
25 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to  
26 use such payment as a tax deduction.

27            23. If Respondent fails to pay the assessed civil administrative penalty of FIFTY-TWO  
28 THOUSAND, NINE HUNDRED, AND NINETY DOLLARS (\$52,990), as identified in

Paragraph 21, by the deadline specified in that Paragraph, then Respondent shall also pay a stipulated penalty to EPA. The amount of the stipulated penalty will be TWENTY-TWO THOUSAND, SEVEN HUNDRED, AND TEN DOLLARS (\$22,710), and will be immediately due and payable on the day following the deadline specified in Paragraph 21, together with the initially assessed civil administrative penalty of FIFTY-TWO THOUSAND, NINE HUNDRED, AND NINETY DOLLARS (\$52,990), resulting in a total penalty due of SEVENTY-FIVE THOUSAND AND SEVEN HUNDRED DOLLARS (\$75,700). Failure to pay the civil administrative penalty specified in Paragraph 21 by the deadline specified in that Paragraph may also lead to any or all of the following actions:

(1) EPA may refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and appropriateness of the assessed penalty or of this CAFO is not subject to review in any such collection proceeding.

(2) The U.S. Government may collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the U.S. Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. §§ 13(C) and 13(H).

(3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds.

(4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S. Government may assess interest, administrative handling charges, and nonpayment penalties against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty specified in Paragraph 21 by the deadline specified in that Paragraph.

(a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established



1 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,  
2 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty  
3 (30) days of the effective date of this CAFO.

4 (b) Administrative Handling Charges. Pursuant to 31 U.S.C.  
5 Section 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge,  
6 based on either actual or average cost incurred (including both direct and indirect costs), for  
7 every month in which any portion of the assessed penalty is more than thirty (30) days past due.

8 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)  
9 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,  
10 may be assessed on all debts more than ninety (90) days delinquent.

#### 11 F. CERTIFICATION OF COMPLIANCE

12 24. In executing this CAFO, Respondent certifies that (1) it has now fully completed and  
13 submitted to EPA all of the required Toxic Chemical Release Inventory Forms in compliance  
14 with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder;  
15 and (2) it has complied with all other EPCRA requirements at all facilities under its control.

#### 16 G. RETENTION OF RIGHTS

17 25. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's  
18 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C  
19 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil  
20 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
21 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal  
22 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
23 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
24 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

25 26. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's  
26 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,  
27 and permits.  
28

1 H. ATTORNEYS' FEES AND COSTS

2 27. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in  
3 this proceeding.

4 I. EFFECTIVE DATE

5 28. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be  
6 effective on the date that the Final Order contained in this CAFO, having been approved and  
7 issued by either the Regional Judicial Officer or Regional Administrator, is filed.


8 J. BINDING EFFECT

9 29. The undersigned representative of Complainant and the undersigned representative of  
10 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
11 of this CAFO and to bind the party he or she represents to this CAFO.

12 30. The provisions of this CAFO shall apply to and be binding upon Respondent and its  
13 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,  
14 and assigns.

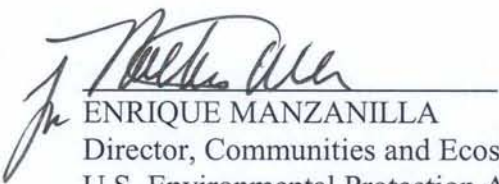
15  
16 FOR RESPONDENT SANTA ROSA LEAD PRODUCTS, INC.:

17  
18 7/3/08  
19 DATE

20   
MICHAEL J. DRURY  
President  
Santa Rosa Lead Products, Inc.  
33 South University Street  
Healdsburg, CA 95448-4021

21  
22  
23 FOR COMPLAINANT EPA:

24  
25 7/30/08  
26 DATE

27   
ENRIQUE MANZANILLA  
Director, Communities and Ecosystems Division  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105




1 II. FINAL ORDER

2 EPA and Santa Rosa Lead Products, Inc. having entered into the foregoing Consent  
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-2008-<sup>0006</sup> ) be  
5 entered, and Respondent shall pay a civil administrative penalty in the amount of FIFTY-TWO  
6 THOUSAND, NINE HUNDRED, AND NINETY DOLLARS (\$52,990), and comply with the  
7 terms and conditions set forth in the Consent Agreement.  
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9

10  
11  
12 07/31/08  
13 DATE

14   
STEVEN JAWGIEL  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region IX  
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CERTIFICATE OF SERVICE

I certify that the original and one copy of the fully executed Consent Agreement and Final Order Pursuant to 40 C.F.R Sections 22.13 and 22.18 (Docket No. EPCRA-9-2008-<sup>0006</sup>) against Santa Rosa Lead Products, was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of the same was sent to Respondent at the following address:

Mr. Michael J. Drury  
President  
Santa Rosa Lead Products, Inc.  
33 South University Street  
Healdsburg, CA 95448-4021

Certified Mail No. 7007 3020 0000 9806 7838

Danielle E. Carr

Danielle Carr  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region IX

Date

Aug. 4 2008