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2012 SEP 28 PM 2: 05

U.S. EPA, REGION IX
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7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10 In the matter of:)	Docket No. EPCRA-09-2012- <u>0011</u>
)	
11 PCC Rollmet, Inc.,)	
)	CONSENT AGREEMENT
)	AND FINAL ORDER
12 Respondent.)	pursuant to 40 C.F.R. §§ 22.13(b),
)	22.18(b)(2), and 22.18(b)(3)

14
15 I. CONSENT AGREEMENT

16 The United States Environmental Protection Agency, Region IX ("EPA"), and PCC
17 Rollmet, Inc. (the "Respondent") agree to settle this matter and consent to the entry of this
18 Consent Agreement and Final Order ("CAFO").

19 A. AUTHORITY AND PARTIES

20 1. This is a civil administrative action brought under Section 325(c) of the Emergency
21 Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for
22 assessment of a civil administrative penalty against Respondent for its failure to: (1) submit
23 timely, complete and correct Toxic Chemical Release Inventory Forms for calendar years 2007,
24 2008, 2009, and 2010; (2) provide supplier notification for calendar years 2007, 2008, 2009,
25 2010, 2011, and 2012; (3) retain complete records for calendar years 2007, 2008, 2009, 2010,
26 2011, and 2012; and (4) maintain records at the facility for calendar years 2007, 2008, 2009,
27 2010, 2011, and 2012, all in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the
28 implementing regulations set forth at 40 C.F.R. Part 372.

1 2. Complainant is the Director of the Communities and Ecosystems Division in EPA,
2 Region IX (the "Complainant"). Pursuant to EPA Delegation Order Number 22-3-A, dated May
3 11, 1994, the Administrator of EPA has delegated the authority to file this action under EPCRA
4 to the Regional Administrator of EPA, Region IX, and pursuant to EPA Regional Order Number
5 R1260.14B, dated May 19, 2005, the Regional Administrator re-delegated that authority to
6 Complainant.

7 B. STATUTORY AND REGULATORY BASIS

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

12 4. Sections 313(a) and (b) of EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R.
13 §§ 372.22 and 372.30, provide that the owner or operator of a facility must submit to EPA and
14 the State in which the facility is located a chemical release form published under Section 313(g)
15 of EPCRA for each toxic chemical or toxic chemical category listed under Section 313(c) of
16 EPCRA and 40 C.F.R. § 372.65 that it manufactured, processed or otherwise used if: (i) the
17 facility has ten or more full-time employees; (ii) the facility is in North American Industry
18 Classification System Code 336414; and (iii) the facility manufactured, processed or otherwise
19 used during the calendar year the listed toxic chemical or toxic chemical category in excess of the
20 threshold quantity established under Section 313(f) of EPCRA and 40 C.F.R. § 372.25.

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

27 6. Pursuant to 40 C.F.R. § 372.45, suppliers (*i.e.*, owners and operators of facilities in
28 covered SIC or NAICS codes that manufacture or process listed toxic chemicals and sell or

1 distribute products containing such toxic chemicals to facilities in covered SIC or NAICS codes)
2 must notify customers about the presence and percent composition of toxic chemicals in their
3 products.

4 7. Pursuant to 40 C.F.R. § 372.10(a) and (b), each person subject to the reporting or
5 notification requirements of 40 C.F.R. Part 372 must retain complete records (as specified in the
6 regulations) for a period of three years from the date of the submission of a report under 40
7 C.F.R. § 372.30 or of a notification under 40 C.F.R. § 372.45, respectively.

8 8. Pursuant to 40 C.F.R. § 372.10(c), records retained under 40 C.F.R. Part 372 must be
9 maintained at the facility to which the report applies or from which a notification was provided.
10 Such records must be readily available for purposes of inspection by EPA.

11 C. GENERAL ALLEGATIONS

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

14 10. On July 25, 2011, Respondent became the owner and operator of a facility (the
15 "Facility") in the business of manufacturing seamless alloy and stainless steel pipe, located at
16 1822 Deere Avenue in Irvine, California, that fits within the definition of a "facility," as provided
17 in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

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

20 12. At all times relevant to this matter, the Facility was in North American Industry
21 Classification System Code 336414.

22 D. ALLEGED VIOLATIONS

23 COUNTS 1-8: Failure to file timely Form Rs, 40 C.F.R. § 372.30.

24 13. Paragraphs 9 through 12 above are hereby incorporated in these Counts 1-8 by
25 reference as if the same were set forth herein in full.

26 14. During the calendar year 2007, Respondent "processed," as that term is defined in 40
27 C.F.R. § 372.3, approximately 93,000 pounds of chromium, a toxic chemical listed under 40
28 C.F.R. § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting

1 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
2 § 11023(f), and 40 C.F.R. § 372.25.

3 15. During the calendar year 2007, Respondent “processed,” as that term is defined in 40
4 C.F.R. § 372.3, approximately 25,200 pounds of nickel, a toxic chemical listed under 40 C.F.R.
5 § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
6 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
7 § 11023(f), and 40 C.F.R. § 372.25.

8 16. During the calendar year 2008, Respondent “processed,” as that term is defined in 40
9 C.F.R. § 372.3, approximately 192,000 pounds of chromium, a toxic chemical listed under 40
10 C.F.R. § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
11 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
12 § 11023(f), and 40 C.F.R. § 372.25.

13 17. During the calendar year 2008, Respondent “processed,” as that term is defined in 40
14 C.F.R. § 372.3, approximately 42,000 pounds of nickel, a toxic chemical listed under 40 C.F.R.
15 § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
16 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
17 § 11023(f), and 40 C.F.R. § 372.25.

18 18. During the calendar year 2009, Respondent “processed,” as that term is defined in 40
19 C.F.R. § 372.3, approximately 100,000 pounds of chromium, a toxic chemical listed under 40
20 C.F.R. § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
21 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
22 § 11023(f), and 40 C.F.R. § 372.25.

23 19. During the calendar year 2009, Respondent “processed,” as that term is defined in 40
24 C.F.R. § 372.3, approximately 68,000 pounds of nickel, a toxic chemical listed under 40 C.F.R.
25 § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
26 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
27 § 11023(f), and 40 C.F.R. § 372.25.

28 20. During the calendar year 2010, Respondent “processed,” as that term is defined in 40

1 C.F.R. § 372.3, approximately 51,000 pounds of chromium, a toxic chemical listed under 40
2 C.F.R. § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
3 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
4 § 11023(f), and 40 C.F.R. § 372.25.

5 21. During the calendar year 2010, Respondent “processed,” as that term is defined in 40
6 C.F.R. § 372.3, approximately 74,000 pounds of nickel, a toxic chemical listed under 40 C.F.R.
7 § 372.65, at the Facility. This quantity exceeded the 25,000 pound threshold for reporting
8 “processing” of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C.
9 § 11023(f), and 40 C.F.R. § 372.25.

10 22. Respondent was required to submit Form Rs for chromium and nickel to EPA and
11 the State of California for calendar year 2007 for the Facility on or before July 1, 2008.

12 23. Respondent was required to submit Form Rs for chromium and nickel to EPA and
13 the State of California for calendar year 2008 for the Facility on or before July 1, 2009.

14 24. Respondent was required to submit Form Rs for chromium and nickel to EPA and
15 the State of California for calendar year 2009 for the Facility on or before July 1, 2010.

16 25. Respondent was required to submit Form Rs for chromium and nickel to EPA and
17 the State of California for calendar year 2010 for the Facility on or before July 1, 2011.

18 26. Respondent failed to timely submit the Form Rs required of it to EPA and the State
19 of California for calendar years 2007, 2008, 2009, and 2010 for the Facility and thus violated
20 Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

21 COUNTS 9-35: Failure to provide supplier notification, 40 C.F.R. § 372.45.

22 27. Paragraphs 9 through 12 above are hereby incorporated in these Counts 9-35 by
23 reference as if the same were set forth herein in full.

24 28. For the purposes of 40 C.F.R. § 372.45, Respondent is a supplier and thus subject to
25 the supplier notification requirements set forth therein.

26 29. For each of calendar years 2007, 2008, 2009, 2010, 2011, and 2012, Respondent did
27 not notify its customers about the presence and percent composition of four toxic chemicals
28 (chromium, cobalt, manganese, and nickel) in the products it sold or distributed to them.

1 30. For each of calendar years 2007, 2008, and 2009, Respondent did not notify its
2 customers about the presence and percent composition of copper in the products it sold or
3 distributed to them.

4 31. By failing to provide supplier notification to its customers for four toxic chemicals in
5 each of calendar years 2007, 2008, 2009, 2010, 2011, and 2012, and a fifth toxic chemical in
6 each of calendar years 2007, 2008, and 2009, Respondent violated Section 313 of EPCRA, 42
7 U.S.C. § 11023, and 40 C.F.R. § 372.45.

8 COUNTS 36-41: Failure to retain complete records, 40 C.F.R. § 372.10(a) and (b).

9 32. Paragraphs 9 through 12 above are hereby incorporated in these Counts 36-41 by
10 reference as if the same were set forth herein in full.

11 33. For each of calendar years 2007, 2008, 2009, 2010, 2011, and 2012, Respondent did
12 not retain complete records (as specified in the regulations) for a period of three years after the
13 submission of a report or notification as required pursuant to the record-keeping requirements set
14 forth at 40 C.F.R. § 372.10(a) and (b).

15 34. By failing to retain complete records for calendar years 2007, 2008, 2009, 2010,
16 2011, and 2012, Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R.
17 § 372.10(a) and (b).

18 COUNTS 42-47: Failure to maintain records at the facility, 40 C.F.R. § 372.10(c).

19 35. Paragraphs 9 through 12 above are hereby incorporated in these Counts 42-47 by
20 reference as if the same were set forth herein in full.

21 36. For each of calendar years 2007, 2008, 2009, 2010, 2011, and 2012, Respondent did
22 not have the records required pursuant to 40 C.F.R. § 372.10(c) readily available at the Facility
23 for purposes of inspection by EPA.

24 37. By failing to maintain the requisite records at the Facility for calendar years 2007,
25 2008, 2009, 2010, 2011, and 2012, Respondent violated Section 313 of EPCRA, 42 U.S.C.
26 § 11023, and 40 C.F.R. § 372.10(c).

27 38. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Civil Monetary Penalty
28 Inflation Adjustment Rule, 40 C.F.R. Part 19, provide that any person who violates any

1 requirement of Section 313 shall be liable to the United States for a civil penalty in an amount
2 not to exceed (1) \$32,500 for each such violation that occurred after March 15, 2004 but on or
3 before January 12, 2009, and (2) \$37,500 for each such violation that occurred on or after
4 January 12, 2009. Under the Enforcement Response Policy for Section 313 of EPCRA, dated
5 August 10, 1992, and the Civil Monetary Penalty Inflation Adjustment Rule, the 47 violations
6 cited above would merit an unadjusted, gravity-based civil penalty of SEVEN HUNDRED AND
7 EIGHTY-SIX THOUSAND, SIX HUNDRED DOLLARS (\$786,600) given the nature,
8 circumstances, and extent of the violations alleged.

9 E. RESPONDENT'S ADMISSIONS

10 39. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
11 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over
12 Respondent; (ii) admits the specific factual allegations contained in Sections I.C and I.D of this
13 CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of
14 the civil administrative penalty under Section I.F of this CAFO; (iv) waives any right to contest
15 the allegations contained in this CAFO; and (v) waives the right to appeal the proposed Final
16 Order contained in this CAFO.

17 F. AUDIT POLICY

18 40. EPA's final policy statement on *Incentives for Self-Policing: Discovery, Disclosure,*
19 *Correction and Prevention of Violations*, 65 Federal Register 19618 (April 11, 2000) (the "Audit
20 Policy") has several important goals, including encouraging greater compliance with the laws and
21 regulations which protect human health and the environment and reducing transaction costs
22 associated with violations of the laws EPA is charged with administering. If certain specified
23 criteria are met, reductions in gravity-based penalties of up to 100% are available under the Audit
24 Policy. These criteria are: (1) systematic discovery of the violation(s) through an environmental
25 audit or compliance management system; (2) voluntary disclosure; (3) prompt disclosure; (4)
26 discovery and disclosure independent of government or third party plaintiff; (5) correction and
27 remediation; (6) prevent recurrence; (7) no repeat violations; (8) other violations excluded; and
28 (9) cooperation.

1 J. EFFECTIVE DATE

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

5 K. BINDING EFFECT

6 47. The undersigned representative of Complainant and the undersigned representative of
7 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
8 of this CAFO and to bind the party he or she represents to this CAFO.

9 48. The provisions of this CAFO shall apply to and be binding upon Respondent and its
10 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,
11 and assigns.

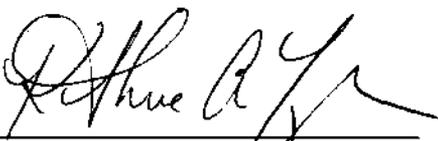
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13 FOR RESPONDENT PCC ROLLMET, INC.:

14 09/19/12
15 DATE

16 
17 Tony Wong
18 Operations Manager
19 PCC Rollmet, Inc.
20 1822 Deere Avenue
21 Irvine, CA 92606

22 FOR COMPLAINANT EPA:

23 9/27/12
24 DATE

25 
26 ENRIQUE MANZANILLA
27 Director, Communities and Ecosystems Division
28 U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

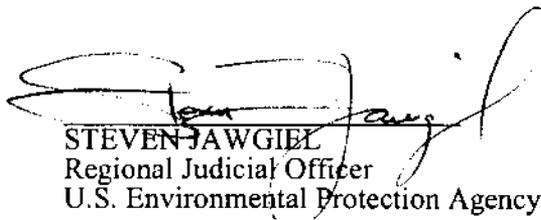
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II. FINAL ORDER

EPA and PCC Rollmet, Inc. having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-2012-b011) be entered, and Respondent shall comply with the terms and conditions set forth in the Consent Agreement.

09/28/12
DATE



STEVEN JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of PCC ROLLMET, INC. (Docket #: EPCRA-09-2012-0011) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

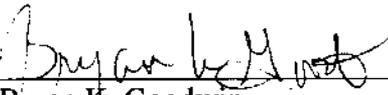
A copy was mailed via CERTIFIED MAIL to:

Tony Wong
Operations Manager
PCC Rollmet, Inc.
1822 Deere Avenue
Irvine, CA 92606

CERTIFIED MAIL NUMBER: 7010 2780 0000 8389 2195

And additional copy was hand-delivered to the following U.S. EPA case attorney:

Edgar Coral, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

9/28/12

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Certified Mail No. 7010 2780 0000 8389 2195
Return Receipt Requested

SEP 27 2012

Re: EPCRA-09-2012- 0011

Tony Wong
Operations Manager
PCC Rollmet, Inc.
1822 Deere Avenue
Irvine, CA 92606

Dear Mr. Wong:

Enclosed please find your copy of the fully executed Consent Agreement and Final Order, pursuant to 40 C.F.R. Sections 22.13 and 22.18, which contains the terms of the settlement reached with the EPA Region IX Toxic Chemical Release Inventory Program. Your completion of all actions enumerated in the Consent Agreement and Final Order will close this case.

If you have any questions, please contact Russ Frazer at (415) 947-4220 or have your attorney contact Edgar Coral at (415) 972-3898.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla".

Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosure